Voices *of the* Bar *and the* Barricade

Fuad's reform, Majumdar's rights; Hajjaj's business, Suman's fall, Manir's courts, Farhana's defiance, Andaleeve's design; the seven doctrines

A CRITICAL TEXTBOOK OF SEVEN BANGLADESHI LEGAL-POLITICAL MINDS IN THE AGE OF UPRISING, REFORM, AND CONSTITUTIONAL CRISIS

S M Nazmuz Sakib

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S M Nazmuz Sakib

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Voices of the Bar and the Barricade: Fuad's Reform, Majumdar's Rights, Hajjaj's Business, Suman's Fall, Manir's Courts, Farhana's Defiance, Andaleeve's Design; The Seven Doctrines

A Critical Textbook of Seven Bangladeshi Legal-Political Minds in the Age of Uprising, Reform, and Constitutional Crisis

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The author has made every effort to ensure the accuracy of the information contained in this textbook. However, the dynamic and rapidly evolving nature of the political and legal events described means that subsequent developments may supersede or qualify certain analyses. Readers are encouraged to consult primary sources and updated materials for the most current information.

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Part One: Foundations, Biographies, and the Architecture of Legal-Political Thought in Bangladesh

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PREFACE TO PART ONE

This textbook begins with a confession that most academic works in South Asian political jurisprudence do not make. The seven individuals examined in this volume are not simply politicians who happen to hold law degrees, nor are they merely lawyers who wandered into politics because the salary was better. They are, each in their own distinctive and sometimes contradictory ways, living embodiments of a profound philosophical tension that has animated Bangladeshi public life since the country's founding moment in 1971. That tension can be stated simply, even if its resolution has proved extraordinarily complicated. It is the tension between law as a system of rational constraint upon power, and law as a weapon that powerful people wield against those who threaten them. Every one of our seven subjects has stood on both sides of that divide at different points in their careers. That is what makes them interesting. That is also what makes this textbook necessary.

Bangladesh is not a small or peripheral case study in global jurisprudence. It is a nation of approximately 170 million people that has, in the space of fifty-three years, witnessed a liberation war of almost unimaginable violence, multiple military coups, the assassination of its founding father, decades of authoritarian rule in varying institutional forms, a return to competitive democracy, the slow erosion of that democracy under what critics have described as a single-party hegemonic system, a student-led popular uprising that toppled a government in August 2024, an interim administration led by a Nobel Peace Prize laureate, a constitutional reform process, and a general election in February 2026 that produced the country's first genuinely competitive result in well over a decade. Each of these moments was a jurisprudential event as much as a political one. Each produced legal arguments, constitutional crises, court orders, public statements from lawyers, and mobilizations of legal rhetoric in the service of political goals. Our seven subjects were present, often centrally, in many of these moments.

The jurisprudential and philosophical framework through which we will examine these seven lives draws on multiple traditions. From the common law tradition inherited from British colonialism, we draw the concepts of the rule of law, parliamentary sovereignty, and judicial independence. From natural law theory, beginning with Aristotle and running through Aquinas, Grotius, Locke, and into contemporary figures such as Ronald Dworkin and John Finnis, we draw the idea that law has a moral foundation that positive enactment cannot fully override. From legal positivism, associated principally with Jeremy Bentham, John Austin, and H.L.A. Hart, we draw the analytically clarifying but ultimately troubling proposition that law is simply what recognized authorities declare it to be, regardless of its moral content. From critical legal studies, from feminist jurisprudence, from postcolonial legal theory, and from the emerging field of Global South constitutionalism, we draw insights about power, identity, colonial inheritance, and the way legal systems both constrain and reproduce social hierarchies. All of these frameworks illuminate the lives and work of our seven subjects, sometimes in ways that confirm their self-understanding, and sometimes in ways that fundamentally challenge it.

A note on method. This textbook is a work of critical scholarship, not hagiography. None of our seven subjects is treated as a hero without qualification. None is treated as a villain without nuance. The goal throughout is to understand, to explain, to analyze, and where appropriate to evaluate. Where public statements can be verified, they are cited and discussed. Where internal party conflicts are documented in reliable sources, they are examined. Where philosophical or jurisprudential frameworks illuminate behavior or rhetoric, those frameworks are deployed. The author is aware that writing about living political figures in a context as charged as post-August 2024 Bangladesh is an inherently risky intellectual undertaking. The risk is accepted in the belief that the alternative, silence or anodyne description, serves no one.

Part One covers the historical, philosophical, and biographical foundations necessary to understand all seven subjects. It opens with a chapter on the historical and constitutional architecture of Bangladesh that provides the context within which all seven careers have unfolded. It then proceeds to detailed examinations of each figure in turn, beginning with the jurisprudential philosophy most relevant to their practice and then moving into biography, controversy, and analysis. The subsequent parts of this textbook will examine specific controversies, internal conflicts, theoretical debates, comparative jurisprudential analysis, and the likely trajectories of their influence on Bangladeshi law and politics.

CHAPTER ONE: THE CONSTITUTIONAL ARCHITECTURE AND ITS FRACTURES

The Birth of a Legal System and the Question of Its Legitimacy

The legal system of Bangladesh was born under conditions that sit uncomfortably with the standard narratives of constitutional founding. Most constitutional founding myths present the birth of a new legal order as a moment of rational collective decision-making in which a people, freed from the constraints of an old regime, gather together to design the institutions that will govern them in accordance with their values and interests. The American founding, whatever its profound exclusions and contradictions in practice, at least presents this mythology with some coherence. The Bangladeshi founding in 1971 cannot present even this modest mythological coherence, because the constitutional document that emerged from independence was drafted under conditions of extraordinary precarity, in the aftermath of a genocide that the new state was simultaneously processing as trauma and mobilizing as legitimating narrative.

The Constitution of Bangladesh, enacted in 1972, drew heavily from the Westminster model of parliamentary democracy and from the Indian Constitution of 1950. It established a unicameral parliament, guaranteed a set of fundamental rights, committed the state to secularism, democracy, Bengali nationalism, and socialism as its four founding principles, and created a Supreme Court with jurisdiction to enforce fundamental rights through a writ procedure derived directly from the English common law tradition. This was an admirable document in many respects. It was also, from the beginning, a document under severe stress.

Within three years of independence, the constitutional order was substantially transformed. In 1975, under the Fourth Amendment to the Constitution, Sheikh Mujibur Rahman, the founding

father himself, abolished the parliamentary system and replaced it with a presidential one-party state in which his newly created BAKSAL became the only legal political organization. The transformation was accomplished through the constitutional amendment procedure, meaning it was technically legal by the positivist criterion that law is whatever the recognized authority declares. But it was also, by any meaningful standard of constitutional democracy, a betrayal of the founding values. H.L.A. Hart's concept of the rule of recognition is illuminating here. Hart argued that a legal system is held together by a rule of recognition, a secondary rule accepted by legal officials that specifies which primary rules are valid law. The extraordinary events of 1975 demonstrated that Bangladesh's rule of recognition was itself contested and fragile, dependent not on institutional consensus but on the power of whoever controlled the military and the parliament.

The assassination of Mujibur Rahman in August 1975, the subsequent series of coups, and the long military rule under both General Ziaur Rahman and General H.M. Ershad further complicated the constitutional picture. General Ziaur Rahman, who came to power through a military coup and later legitimized himself through a referendum, made several significant constitutional changes, including replacing secularism with "absolute trust and faith in the Almighty Allah" as a founding principle and introducing the concept of Bangladeshi nationalism as distinct from Bengali nationalism. General Ershad subsequently added Islam as the state religion in 1988. These changes were accomplished through constitutional amendments but under conditions that cannot plausibly be described as freely deliberated democratic decisions.

The return to parliamentary democracy in 1991 following mass protests that ended Ershad's rule opened a new chapter. The period from 1991 to 2006 represents what many scholars have called Bangladesh's democratic interlude, a period of genuine, if deeply imperfect, competitive parliamentary democracy. The Awami League under Sheikh Hasina and the Bangladesh Nationalist Party under Khaleda Zia alternated in power through elections of varying quality. The political culture of this period was characterized by extraordinary mutual animosity between the two major parties, by the use of hartals and street politics as instruments of opposition, and by what became known as the "winner takes all" problem of Bangladeshi democracy, in which each incoming government used state power as a resource for rewarding supporters and punishing opponents rather than as a trust to be exercised in the public interest.

The crisis that produced the caretaker system, a constitutional innovation unique in the world, arose directly from this mutual mistrust. Under a constitutional amendment of 1996, Bangladesh introduced a system under which a neutral caretaker government of technocrats would assume power between elections to supervise the electoral process and ensure its fairness. This system functioned with reasonable success in the elections of 1996 and 2001. But it broke down catastrophically in 2006-2007, producing a period of military-backed emergency rule and a "minus two" strategy in which military intelligence sought, with only partial success, to remove both Sheikh Hasina and Khaleda Zia from politics. The subsequent return to elections in 2008, won by the Awami League with a massive majority, began the period of Sheikh Hasina's ascendancy that would last until August 2024.

The Fifteenth Amendment to the Constitution in 2011, which abolished the caretaker system and restored provisions for elections to be held under the incumbent government, set the stage for the

electoral and democratic deterioration that followed. The 2014 elections were boycotted by the BNP and held without meaningful opposition. The 2018 elections were marked by widespread allegations of fraud, intimidation, and ballot stuffing on a scale that led international observers to question their credibility fundamentally. The 2024 elections, again boycotted by the BNP, were held against a backdrop of mass imprisonments of opposition leaders and activists. And then, with extraordinary speed and drama, the student-led uprising of July and August 2024 changed everything.

The July-August 2024 Uprising and Its Jurisprudential Significance

The uprising that began in late June and early July 2024 as a protest against a quota system for government jobs transformed within weeks into something that no legal category had adequately prepared Bangladesh for. The quota system protests, initially led by students who objected to what they saw as an unjust reservation of government positions for the descendants of 1971 freedom fighters, grew through a combination of factors into a generalized challenge to the entire political order of the Hasina government. The government's response, which involved the deployment of police, paramilitary forces, and in some instances what witnesses described as military-grade weapons against civilian protesters, resulted in approximately 1,400 deaths according to United Nations estimates, with some estimates going considerably higher. The killing of Abu Sayed, a student at Begum Rokeya University in Rangpur, captured on video as he stood with arms outstretched in a gesture of non-violent defiance before being shot by police, became the iconic image of the uprising.

The jurisprudential significance of the August 5, 2024 moment, when Sheikh Hasina resigned and fled to India, and when the institutional structures of the Awami League government collapsed with extraordinary rapidity, cannot be overstated. It raised, in an immediate and urgent form, questions that jurisprudence has wrestled with for centuries but rarely in such concentrated form. What is the source of legal obligation? When a government falls, do its laws remain binding? What is the constitutional status of an interim government formed under conditions that the existing constitution does not contemplate? Can a popular uprising, however massive and however morally justified, itself constitute a source of legal authority? Can the "sovereign popular will," a phrase used in the Order calling for a referendum in 2025, be a foundation for constitutional change outside the formal amendment procedures of the existing constitution?

These are not merely academic questions. They are the questions with which our seven subjects, all of them lawyers or at least legally trained figures, have had to grapple in real time, in public statements, in court proceedings, and in their political activities. The degree to which they have answered these questions well, badly, honestly, or self-servingly is one of the central themes of this textbook.

Hans Kelsen's concept of the Grundnorm is directly relevant here. For Kelsen, every legal system rests ultimately on a presupposed basic norm, the Grundnorm, which gives validity to all other legal norms. The Grundnorm itself cannot be validated by reference to a higher norm; it is simply presupposed as the foundation of the entire normative order. When a revolution occurs, the Grundnorm changes. The legal order is replaced by a new one with a new basic norm. The interesting question in the Bangladeshi case is precisely what the new Grundnorm is. Is it the

1972 constitution as it existed before its various amendments? Is it a new constitutional moment grounded in the popular will expressed through the uprising? Is it something more hybrid and provisional, a constitutional order that draws on the continuity of the 1972 document while acknowledging the transformative significance of August 2024?

The Appellate Division's remarkable decision in November 2025, overturning its 2011 ruling that had struck down the caretaker government provision of the Thirteenth Amendment, is one legal expression of these deeper jurisprudential tensions. The Constitutional Reform Commission's report of January 2025, proposing a bicameral parliament, term limits for top offices, and an expanded bill of rights, is another. The debate among our seven subjects about what all of this means, what it should mean, and how the law should respond to it is the intellectual heart of this textbook.

The Legal Profession in Bangladesh: Structure, Culture, and Politics

Before turning to our seven individual subjects, it is essential to understand the structure and culture of the legal profession in Bangladesh within which they all operate. The Bangladesh Bar Council, established by the Legal Practitioners and Bar Council Act of 1965, is the regulatory body for the legal profession. Lawyers are organized into a hierarchy of practice: district court advocates, High Court advocates, Supreme Court advocates, and Senior Advocates of the Supreme Court. The process of ascending this hierarchy involves formal examinations and experience requirements administered by the Bar Council.

The cultural dimensions of the profession are at least as important as its formal structure. The Bangladeshi legal profession has historically been deeply politicized. Unlike the English bar, from which much of its formal structure derives, the Bangladeshi bar has never successfully maintained a norm of professional independence from partisan politics. This is not simply a failure of professional ethics. It reflects structural realities of a society in which legal practice and political power are intimately intertwined, in which most significant legal appointments flow through political connections, and in which the courts themselves have not always maintained meaningful independence from the executive branch.

The concept of the "barrister" in Bangladesh deserves particular attention because four of our seven subjects are specifically known as barristers. In the UK, from which the title derives, a barrister is a specialist advocacy lawyer who has been called to the bar by one of the four Inns of Court (Lincoln's Inn, Gray's Inn, Middle Temple, or Inner Temple) after completing the requisite legal education and pupillage. In Bangladesh, the title "barrister" is used for lawyers who have received this English legal qualification, and it carries considerable social prestige. This prestige reflects both genuine educational distinction, as the Bar Professional Training Course in England is rigorous, and a colonial legacy in which English-trained professionals were accorded higher status than those trained domestically.

The symbolic economy of the barrister title in Bangladeshi public discourse is worth examining from a Bourdieusian perspective. Pierre Bourdieu's concepts of cultural capital, social capital, and symbolic capital illuminate the way in which the barrister title functions not merely as a description of professional qualification but as a marker of distinction that operates in both the

legal field and the political field. When Rumeen Farhana is introduced as "Barrister Rumeen Farhana," the title does work that goes beyond simply identifying her professional qualification. It invokes a particular lineage of legal training, a connection to English legal culture, and a claim to a form of intellectual authority that is partly independent of political affiliation. When Barrister Asaduzzaman Fuad makes political statements, the barrister title frames those statements as coming from someone with a particular kind of analytical training. Whether or not this framing is always justified by the substance of what is said is a question we will examine in detail.

The Bar Council, the Supreme Court Bar Association, and the various city and district bar associations are not merely professional organizations. They are political institutions. Elections for leadership positions in these organizations are intensely contested affairs that follow broadly partisan lines. The Awami League-affiliated lawyers' front, known as Bangabandhu Ainjibi Parishad, and the BNP-affiliated lawyers' front compete for control of these bodies. This partisan organization of the bar has consequences for the independence of the profession and for the degree to which individual lawyers can build reputations that transcend their political affiliations.

It is against this backdrop that the careers and controversies of our seven subjects must be understood.

CHAPTER TWO: BARRISTER ASADUZZAMAN FUAD

A Lawyer from Khalishpur in the Age of Rupture

Origins, Education, and the Formation of a Legal Mind

Mohammad Asaduzzaman Bhuiyan, universally known in Bangladeshi public life as Barrister Asaduzzaman Fuad, was born in Khalishpur, a neighborhood in Khulna, Bangladesh. His father, Abdul Barek Bhuiyan, was a freedom fighter who had participated in the Liberation War of 1971 and was subsequently known as a cultural activist. The significance of this biographical detail is greater than it might initially appear. In Bangladesh, the status of "freedom fighter" (Muktijoddha) carries enormous social and symbolic weight. It is simultaneously a marker of patriotism, a source of state benefits including the quota for government jobs that triggered the 2024 protests, and a foundation for a particular kind of political narrative.

For Fuad, growing up as the son of a freedom fighter meant growing up within a particular tradition of nationalist commitment and public service. But it also meant growing up in a context of acute political tension, because the freedom fighter legacy was appropriated and politicized by the Awami League in ways that created deep resentments among those who saw their contributions to liberation being used as partisan weapons. The fact that Fuad ultimately associated himself not with the Awami League but with the opposition tradition, and ultimately with the newly formed Amar Bangladesh Party rather than the BNP, suggests that his relationship to his father's legacy was complex and reflective rather than simply inherited.

Fuad's educational journey took him from Dhaka College, where he completed his Higher Secondary studies, to the University of Dhaka for his undergraduate work, and then to the University of London, where he pursued advanced legal studies. He was subsequently called to the bar by the Honourable Society of the Middle Temple, one of the four Inns of Court that have the exclusive right to call barristers to the English and Welsh bar. The Middle Temple has a distinguished history stretching back to the fourteenth century and has produced an extraordinary range of legal minds from its global membership. For Fuad, the Middle Temple call was both an educational credential and a symbolic initiation into a tradition of legal learning that connects the common law world across its many national manifestations.

The experience of studying law in London deserves philosophical attention. Legal education in England, especially at the postgraduate level that produces barristers, is conducted within a tradition of legal formalism that takes the structure and logic of legal argument with great seriousness. The BPTC (Bar Professional Training Course) that Fuad would have completed emphasizes advocacy skills, the ability to construct and deploy legal arguments in adversarial proceedings, professional ethics, and the technical mastery of areas of law including contract, tort, criminal law, and public law. This training produces a particular kind of legal mind: one that is comfortable with formal argument, attentive to precedent, and trained to approach problems as contests between competing legal positions rather than as simple factual matters with obvious solutions.

What happens when a mind trained in this tradition returns to Bangladesh, where the legal culture is simultaneously deeply indebted to the English common law tradition and profoundly shaped by political pressures that the English bar has, at least formally, managed to resist? This is not a question with a simple answer. But it is a question that shapes every aspect of Fuad's subsequent career.

The Amar Bangladesh Party and the Political Philosophy of Reform

Fuad's political home, the Amar Bangladesh Party (AB Party), was founded in the wake of the political upheaval that followed the student protests of 2018 and the contested elections of that year. The party represents, at least in its self-description, an attempt to create a genuine third-force alternative to the binary choice between the Awami League and the BNP that has dominated Bangladeshi politics for three decades. Fuad served initially as Joint Secretary General of the AB Party before being elected as General Secretary at the party's first National Council in 2025.

The philosophical underpinnings of the AB Party's platform, and of Fuad's specific contributions to that platform, are worth examining in some detail because they reveal the degree to which a London-trained barrister's legal thinking has been applied to the specific conditions of Bangladeshi political dysfunction. Fuad has consistently argued for what he calls a "reform charter," a set of structural changes to Bangladesh's political and legal institutions that would be binding on all parties that participate in the political process. This proposal has a pedigree in comparative constitutional theory. The concept of "pre-commitment" in constitutional design, the idea that political actors can and should bind themselves in advance to certain procedural and

substantive norms, has been extensively theorized by scholars including Jon Elster and Stephen Holmes.

Elster's analysis of what he calls "constitutionalism" in the precommitment sense draws on the Odysseus and the sirens analogy. Just as Odysseus bound himself to the mast to prevent himself from following the sirens' call while still allowing himself to hear their song, constitutional precommitments allow political actors to restrain their future selves when passions or short-term interests might otherwise lead to harmful decisions. Fuad's reform charter proposal is, in this sense, an attempt to create sirens' binding for Bangladeshi political parties, committing them in advance to principles of fair competition, institutional respect, and accountability that they might be tempted to abandon once in power.

The proposal also reflects a deeper jurisprudential argument about the relationship between electoral democracy and constitutional democracy. Fuad has been consistent in arguing that Bangladesh's problem is not simply the corruption or authoritarianism of specific leaders but the structural failure of institutions. This is a diagnosis that aligns closely with the "new institutionalist" tradition in political science, associated with scholars such as Douglass North, whose work on institutions, institutional change, and economic performance has been influential across disciplines. North's central argument, that institutions, the rules of the game, matter enormously for political and economic outcomes, and that changing leaders without changing institutions produces disappointing results, maps almost precisely onto the Bangladeshi experience of repeated cycles in which new governments reproduce the pathologies of their predecessors.

Fuad's public statements consistently reflect this institutional diagnosis. His November 2024 statement in Rangpur, for example, focused not on the personal failings of any individual leader but on the "extortion culture" that he argued had persisted across political transitions. The statement deserves to be quoted at some length because it illustrates both the analytical quality of his thinking and its rhetorical sharpness. He said, in substance, that only the list of extortionists had changed, that markets, bus stands, ferry piers, and hawker markets across Bangladesh had been occupied under political umbrellas, and that his party did not practice politics of occupation. This is not a statement about personalities. It is a structural argument about how political patronage systems work to reproduce themselves regardless of which party controls the patronage networks.

The Proportional Representation Question and Electoral Philosophy

One of the most intellectually interesting aspects of Fuad's public interventions has been his engagement with the question of proportional representation as an alternative or supplement to the first-past-the-post electoral system that Bangladesh inherited from its colonial relationship with Britain. This is not a simple or partisan question. It is a genuine question in political philosophy and comparative electoral studies, and the way Fuad approaches it reveals both the sophistication of his analytical framework and its limitations.

Fuad argued in his 2024 Rangpur statement that proportional representation elections would be difficult for people with little education and limited political understanding. This is a substantive

position in the debate about electoral systems, and it connects to a real tension in democratic theory. The case for proportional representation, associated with scholars such as Arend Lijphart whose comparative study of "Patterns of Democracy" remains enormously influential, rests on the argument that PR systems produce more representative outcomes, better reflect the diversity of political opinion in a society, and reduce the "wasted votes" problem in which large numbers of voters support parties that receive no parliamentary representation. The case against PR, or at least against certain forms of it, includes arguments about accountability, the complexity of multi-party coalition formation, and precisely the accessibility argument that Fuad raised.

John Stuart Mill, in his Considerations on Representative Government, engaged with this tension in ways that remain relevant. Mill was deeply committed to the idea that the quality of democratic deliberation depends on the quality of citizen engagement, and he was therefore concerned about electoral systems that might produce outcomes whose complexity outpaced citizens' understanding. But Mill also recognized, in his advocacy for proportional representation as proposed by Thomas Hare, that the first-past-the-post system produces its own significant distortions by systematically under-representing minority viewpoints.

Fuad's position, at least as publicly stated, seems to weight the accessibility concern more heavily than the representativeness concern. This is a defensible position, but it sits in some tension with the broader reform agenda of the AB Party, which is committed to deepening democratic participation and reducing the power of established political machines. More representative electoral systems, including proportional representation, tend to be associated in comparative experience with the empowerment of smaller parties and the reduction of duopolistic party systems precisely of the kind that the AB Party is trying to challenge. If Fuad's accessibility concern leads to retention of a first-past-the-post system, it may inadvertently protect the BNP-AL duopoly that the AB Party seeks to break.

This tension between the rhetoric of reform and the practical implications of specific reform proposals is a recurring feature of our subjects' intellectual and political trajectories, and it will be examined in detail throughout this textbook.

The Institutional Collapse Thesis and Its Implications

Perhaps the most striking of Fuad's public interventions was his analysis, also from the 2024 Rangpur statement, of the unprecedented scale of institutional collapse in Bangladesh following the August 2024 uprising. He argued that since the Liberation War of 1971, no changed political context in the country had produced an institutional collapse comparable to what occurred in 2024. No institution, he said, was effective. Administration, defense, local government, and everything else had collapsed. There was not even a minimum of elected representatives in the country.

This is a diagnosis worth examining carefully because it has significant jurisprudential and political implications. The concept of institutional collapse, or state fragility in development economics terminology, raises fundamental questions about the conditions under which a legal system can function. Lon Fuller, in his "The Morality of Law," argued that law requires for its very existence certain internal structural features that he called the "inner morality of law." These

include the requirements that law be general, publicly promulgated, prospective, clear, non-contradictory, capable of being complied with, stable over time, and administered in a manner congruent with the rules as declared. A legal system that lacks these features does not merely fail to live up to an ideal. In Fuller's view, it fails to be law at all.

The question of whether post-August 2024 Bangladesh had a functioning legal system in Fuller's sense is not a trivial or rhetorical one. Courts continued to sit. Judges continued to issue orders. Lawyers continued to file petitions. But the institutional infrastructure within which these activities occurred was severely disrupted. The police force had been discredited and demoralized by its role in the killings of July and August. The administration at multiple levels had either fled, been replaced, or was operating under conditions of extreme uncertainty. The political parties that had staffed these institutions under the previous government had lost their positions but retained their organizational capacity in ways that created ongoing disorder.

Fuad's institutional collapse thesis resonates with the scholarship on transitional justice and democratic transitions. Samuel Huntington's "The Third Wave" and Juan Linz and Alfred Stepan's "Problems of Democratic Transition and Consolidation" both identify the preservation of at least minimal state functionality as a precondition for successful democratic transition. Where the state collapses entirely, the vacuum tends to be filled not by democratic institutions but by informal power structures, crime, or authoritarian alternatives. Fuad's concern about this dynamic was not simply partisan rhetoric. It reflected a genuine and theoretically grounded worry about the conditions under which Bangladesh's democratic transition could succeed.

What is interesting, and also somewhat problematic, is the way in which this analysis of institutional collapse served different rhetorical purposes in different contexts. In the immediate aftermath of August 2024, the diagnosis of collapse was deployed to counsel patience with the interim government led by Muhammad Yunus, on the grounds that the government had taken power "in such a reality" and its performance over the first hundred days had "not been very bad." As time went on, and as questions arose about the interim government's own performance and democratic legitimacy, the same diagnosis might be used to counsel patience with delay or to argue for urgency in restoring elected governance. The flexibility of the diagnosis is both its analytical strength and its political risk.

Internal Party Dynamics and the Challenge of Third-Force Politics

The AB Party's position in the Bangladeshi political landscape after August 2024 was genuinely difficult. On one side, the BNP, freshly energized by its role in the popular uprising and its long years in opposition, was positioning itself as the natural vehicle for democratic restoration and was drawing on its massive organizational infrastructure and popular base. On the other side, the newly formed National Citizens' Party (NCP), connected to the student leaders who had actually led the uprising, was claiming the moral authority of the uprising's immediate participants. The AB Party, as a third-force formation that had neither the BNP's organizational depth nor the NCP's insurgent moral authority, was navigating extremely difficult terrain.

Fuad's role as General Secretary placed him at the center of these strategic dilemmas. His background as a London-trained barrister with no deep organizational roots in either of the major

party structures gave him credibility as a genuinely independent voice, but it also limited his ability to mobilize the grassroots networks that matter enormously in Bangladeshi electoral politics. His candidacy for the 2026 elections from the Barishal-3 seat under the AB Party banner placed him in a competitive environment where the BNP and its allies were expected to dominate.

The philosophical challenge of third-force politics in a polarized binary system is one that political philosophers have examined extensively. The "median voter theorem," associated with Harold Hotelling and Anthony Downs, predicts in its simplest form that in a two-party system, both parties will converge toward the preferences of the median voter. This convergence, in theory, should leave room for third parties to occupy positions that neither major party is representing. But in practice, first-past-the-post electoral systems create structural barriers to third parties through the "spoiler effect," in which votes for third-party candidates reduce the electoral prospects of the major party closest to the third party's position, discouraging strategic voters from supporting the third party at all.

Fuad and the AB Party were acutely aware of this structural problem. The party's response was to propose electoral alliances and to advocate for proportional representation, which would reduce the structural disadvantage third parties face. But this created its own tensions, since any electoral alliance with either the BNP or the NCP risked compromising the third-force identity that was the AB Party's main distinctive claim.

Controversial Statements and Their Analytical Significance

Fuad's public statements have generated controversy on several occasions, and examining these controversies is important not to embarrass him but to understand the way in which the legal-political mind operates under pressure and in the glare of public attention.

His comment about the PhD scandal, delivered as a reference to the fact that between 1996 and 2001, the nation had seen the buying of PhDs from public funds, connecting this to Bangladesh's emergence as a "global champion in corruption," was sharp and effective as political rhetoric. It was also legally and ethically problematic in a way that Fuad, as a barrister, should be expected to recognize. The statement implied, without proving, a direct causal connection between specific educational policies and measured corruption outcomes. The Global Corruption Perceptions Index, published annually by Transparency International, is a measure of perceived corruption based on expert and business surveys. It is a useful indicator but is not the same thing as a measure of actual corruption. Using it as if it were evidence for a specific policy claim requires more caution than a punchy political statement typically allows.

This gap between the analytical rigor that legal training demands and the rhetorical simplifications that political communication requires is a central tension in the careers of all our subjects. Lawyers are trained to qualify their claims, to acknowledge counter-arguments, to present evidence with appropriate epistemic humility. Politicians are rewarded for clarity, passion, and memorable formulations. When lawyers become politicians, they must negotiate this tension. Some resolve it by abandoning lawyerly precision for political simplification. Others maintain the precision at the cost of political impact. The most successful lawyer-

politicians find ways to deploy legal reasoning in political contexts without entirely sacrificing either rigor or accessibility. Whether Fuad achieves this balance is a question we will revisit throughout the textbook.

The Border Killings Analysis and Foreign Policy Jurisprudence

Fuad's analysis of border killings, particularly his observation that under the Hasina government, India's High Commissioner was never formally summoned to explain why Bangladeshis were being killed at the border, while under the interim government such summoning had become routine, represents an interesting example of international law reasoning in a domestic political context.

The killing of Bangladeshi citizens along the border with India by the Indian Border Security Force (BSF) has been a persistent issue in the bilateral relationship. Under international law, the principles applicable to the treatment of individuals at borders are drawn from multiple sources: the International Covenant on Civil and Political Rights, which Bangladesh has ratified, obligates states to respect the right to life; the Vienna Convention on Diplomatic Relations governs the conduct of diplomatic interactions including protests; and customary international law establishes norms about the treatment of foreign nationals by state security forces.

Fuad's argument that the previous government's failure to formally summon India's representative over these killings represented a failure of diplomatic and legal obligation is substantively correct. The right to life under Article 6 of the ICCPR is non-derogable. The obligation to investigate and respond to credible reports of extrajudicial killings, including of one's own nationals by foreign security forces, flows from this right. A government that systematically fails to protest such killings, let alone formally summon diplomatic representatives to explain them, is arguably failing in its international legal obligations.

The political dimension of this observation is also significant. Fuad was making a point about the degree to which the Hasina government's close relationship with India had compromised its willingness to assert Bangladesh's legal interests. This connects to a broader debate in Bangladeshi political culture about the country's relationship with its large neighbor, a debate that became considerably more charged after August 2024, when allegations circulated that India had provided support to the Hasina government in ways that compromised Bangladeshi sovereignty.

The jurisprudential analysis of sovereignty, particularly as developed in postcolonial legal theory, is relevant here. Antony Anghie's influential work on imperialism, sovereignty, and the making of international law argues that international law's concept of sovereignty was historically constructed in ways that benefited colonial powers and their successors at the expense of smaller and less powerful states. The Bangladeshi experience of sovereignty is particularly complex because the country's independence was itself secured with Indian military assistance, creating a relationship that has always been ambiguous between alliance and dependency. Fuad's observations about border killings and diplomatic assertiveness touch on these deeper structural questions about what sovereignty means in the Bangladeshi context.

CHAPTER THREE: NIJHUM MAJUMDAR

The Diaspora Lawyer and the Politics of International Advocacy

Background and Professional Formation

Golam Maruf Majumdar, known publicly as Nijhum Majumdar, occupies a distinctive position among our seven subjects because his intellectual and political work has been conducted substantially from outside Bangladesh, specifically from London, while remaining intensely focused on Bangladeshi political and legal affairs. He is both a barrister and a solicitor, which is unusual and reflects the distinct pathways that the English legal profession offers. He is also a writer, having published five books, three on international criminal law and two on the Indemnity Act of 1975 and Bangladeshi politics. This combination of professional legal qualifications, scholarly output, and political activism makes him one of the more intellectually productive of our seven subjects, though also one of the most controversial.

Majumdar's professional formation was shaped by the English legal tradition in a somewhat different way than Fuad's. As both a barrister and a solicitor, Majumdar can both advise clients and appear in court, which gives him a fuller range of professional tools than a barrister alone. His specialization in international criminal law is significant because this area of law was in a period of rapid development and intellectual ferment during the years when he was building his career. The International Criminal Court, established by the Rome Statute in 1998, the international criminal tribunals for the former Yugoslavia and Rwanda, and the growing body of customary international criminal law raised by these institutions produced an outpouring of scholarly and professional activity. Majumdar's decision to specialize in this area placed him in intellectual contact with some of the most important developments in public international law of the late twentieth and early twenty-first centuries.

His books on the Indemnity Act of 1975 are particularly significant and deserve extended discussion. The Indemnity Act was passed by Sheikh Mujibur Rahman's government in the weeks before his assassination, and it provided legal immunity for the perpetrators of the political killings of November 3, 1975, in which four senior politicians, known as the Four National Leaders (Jatiya Char Neta), were murdered in Dhaka Central Jail. The Act also extended immunity to the coup plotters of August 15, 1975, who had assassinated Mujibur Rahman and most of his family. The Act was subsequently described by the Awami League, after it returned to power in 1996, as a fundamental violation of the rule of law, and efforts were made to prosecute those responsible for the August 15 killings under Hasina's government from 1996 onward.

The jurisprudential and philosophical questions raised by the Indemnity Act are extraordinarily rich. They include: Can a legislature validly enact an amnesty that protects perpetrators of fundamental human rights violations? What is the relationship between parliamentary sovereignty and the protection of fundamental rights? Do the customary international law prohibitions on crimes against humanity create an absolute bar to legislative amnesty, even in the

name of reconciliation or political stability? How does the concept of command responsibility in international criminal law apply to the chain of authority that sanctioned the 1975 killings?

Majumdar's engagement with these questions through his books places him in an important intellectual tradition that includes scholars such as Diane Orentlicher, whose influential article "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime" argued for an international legal obligation to prosecute such violations that overrides domestic political calculations, and Carlos Nino, whose work on transitional justice in Argentina grappled with precisely these tensions between accountability and political stability.

The Political Alignment and Its Controversies

Nijhum Majumdar's public political alignment during the Hasina years was broadly with the Awami League tradition, a positioning that was reflected in his social media presence, which featured the slogan "JOY BANGLA: JOY BONGOBONDHU: LONG LIVE BANGLADESH." Joy Bangla (Victory to Bengal) is the battle cry of the 1971 Liberation War that has been closely associated with the Awami League. Joy Bongobondhu (Victory to the Friend of Bengal, referring to Sheikh Mujibur Rahman) is an explicitly Awami League partisan statement. For a barrister who published books on international criminal law and claimed analytical independence, this explicit partisan affiliation raised questions about the degree to which his legal analysis was shaped by his political commitments.

The controversy intensified dramatically after August 2024, when a murder case was filed naming Majumdar among 49 defendants, including former Prime Minister Sheikh Hasina herself, in connection with the killing of Touhidul Haque, a university admission seeker who died during the "Discrimination Opposition Student Movement" protests. The case was filed by the deceased's brother in a Dhaka Metropolitan Magistrate Court in July 2025, following acceptance by the court of the complaint and direction to Tejgaon police to receive it.

The legal status of such a complaint is different from a conviction, and it is essential to be clear about this distinction. In the Bangladeshi legal system, a complaint filed under Section 200 of the Code of Criminal Procedure is subject to magistrate's examination and a decision on whether to proceed further. Inclusion in a complaint as an accused is therefore not equivalent to a formal charge, let alone a conviction. However, the fact of the complaint, and the association it creates in public perception between Majumdar and the alleged crimes of the Hasina government, represents a fundamental challenge to the public credibility that Majumdar had built through his academic work and advocacy.

The jurisprudential implications of post-uprising accountability processes are worth examining with particular care. Bangladesh's experience from 2024 onward shares some features with other transitional justice contexts while differing from them in important ways. The International Crimes Tribunal, originally established in 2010 to prosecute those responsible for war crimes during the 1971 Liberation War, was reconstituted in October 2024 to take up cases arising from the 2024 killings. The Tribunal's chair, Justice Golam Mortuza Mozumder, and its members were newly appointed. The formal charges against Sheikh Hasina, filed on June 1, 2025, and the

indictment on five counts of crimes against humanity on July 10, 2025, marked the first time a former Bangladeshi prime minister had been brought before this tribunal.

The use of the International Crimes Tribunal for crimes committed in 2024, as opposed to 1971, raises important questions of fair trial standards and institutional design. The Tribunal had previously been criticized by international human rights organizations, including Amnesty International and Human Rights Watch, for failures to meet international standards of fair trial. The involvement of Majumdar in this broader accountability ecosystem, whether as a commentator, as an accused in related proceedings, or as someone whose prior legal work on international criminal law was now being tested by events in his own country, creates a biographical and intellectual narrative of striking complexity.

The Pakistani Forces Controversy and the Problem of Misinformation

One of the more specific controversies involving Majumdar illustrates a different aspect of his public role. In late 2024, a video circulated on social media showing a uniformed security force in Bangladesh. Indian media, including Aaj Tak Bangla, reported the video as evidence of Pakistani armed forces patrolling Bangladeshi streets. Majumdar, asked to comment, said that it seemed unprecedented to him that Pakistani armies would come to the streets of Dhaka and that Punjab Regiment boys or Pakistani soldiers were coming in the guise of SWAT. Subsequent investigation by the fact-checking organization Rumor Scanner established that the video actually showed members of the Crisis Response Team (CRT), a specialized unit of the Bangladesh Police, providing security during the transfer of a Bangladeshi politician.

This incident is instructive for several reasons. First, it illustrates the speed with which misinformation can propagate in the media environment of contemporary Bangladesh, particularly in the context of genuine political tensions following the August 2024 transition. Second, it illustrates the way in which public intellectuals and lawyers can be drawn into commenting on matters they have not adequately investigated, with consequences for their credibility. Third, and most importantly from a jurisprudential perspective, it raises questions about epistemic responsibility in public discourse.

Onora O'Neill's philosophical work on trust and trustworthiness is relevant here. O'Neill argues that trust must be earned through demonstrated trustworthiness, and that trustworthiness requires, among other things, competence, honesty, and reliability. A public figure who makes confident assertions about matters of fact without adequate verification is demonstrating a failure of epistemic competence that, even if the assertion turns out to be correct in some cases, undermines the trustworthiness that public advocacy requires. Majumdar's comment about the Pakistani soldiers was clearly made in good faith on the basis of the video as it had been presented to him. But the failure to caveat the claim, to acknowledge uncertainty, and to await verification represents the kind of epistemic carelessness that the legal profession is supposed to train its practitioners to avoid.

International Advocacy and the Global South Perspective

Majumdar's work as a diaspora lawyer and political advocate connecting Bangladesh to international forums represents an important dimension of his contribution that must be assessed alongside the controversies. His 2025 interviews in Washington, in which he described what he characterized as Bangladesh's rapid descent into chaos and the involvement of foreign agencies and Islamist groups in destabilizing the country, placed him in a tradition of diaspora advocacy that has been important in multiple Global South contexts.

The political economy of diaspora advocacy is complex. Diaspora intellectuals and professionals often enjoy freedoms to speak that their counterparts remaining in the home country do not, because they are outside the reach of state repression. They may also have access to international forums and audiences that domestic actors lack. At the same time, diaspora advocates face questions about representativeness and accountability: Do they speak for those still living in the country? Are their assessments shaped by distance from the daily realities of life under the conditions they describe? Are they using international prestige to advance domestic political agendas that might not command the support of the populations they claim to represent?

These questions do not have simple answers in Majumdar's case. His assessments of what he called Bangladesh's descent into chaos were contested by others with different political perspectives, some of whom argued that the post-August 2024 period, whatever its difficulties, represented a genuine opening for democratic renewal that his analysis was unfairly characterizing as chaos. The political valence of the word "chaos" in this context is significant: it is a word that those who have lost power tend to apply to the disorder that follows their removal, while those who have gained power tend to describe the same period as "transition" or "reform."

Majumdar's claim that foreign agencies, particularly Western governments, were exploiting Bangladesh as a proxy front in their rivalry with India and China is a substantive geopolitical argument that deserves to be taken seriously as an analytical proposition, even if its specific factual claims require more detailed evidence than his interviews provided. The broader argument about great power competition and its effects on small states in South Asia is well documented in the academic literature on international relations. The question of whether this general dynamic was specifically manifesting in Bangladesh in the way Majumdar described is empirical, and the evidence he provided was insufficient to establish it firmly.

The Indemnity Act Scholarship and Its Continuing Relevance

Returning to Majumdar's scholarly work, his analysis of the Indemnity Act of 1975 connects to one of the deepest and most unresolved questions in Bangladeshi legal history. The Act raises the question of whether there is, or should be, a category of acts so fundamentally violative of human dignity that they cannot be amnestied by any legislature, however democratically constituted.

This question has been addressed in international law through the concept of "jus cogens," peremptory norms from which no derogation is permitted. The prohibition of genocide, crimes against humanity, torture, and slavery are generally accepted as jus cogens norms. If these prohibitions have the force of jus cogens, then a domestic legislature's enactment of an amnesty

for perpetrators of such acts is void under international law, regardless of the domestic constitutional authority of the legislature.

The application of this principle to the Indemnity Act of 1975 was one of the grounds on which Bangladeshi courts and academic commentators challenged the Act's validity. Majumdar's scholarly work on this question made a contribution to the Bangladeshi legal literature even if it operated at the intersection of political advocacy and scholarship in ways that some academics would find problematic. The difficulty is that in Bangladesh, as in many postcolonial societies, the distinction between academic scholarship and political advocacy in law is extremely porous. Legal scholars who take positions on questions of constitutional validity are inevitably taking political positions, and political actors who invoke legal arguments are inevitably engaging in a form of legal scholarship. The ability to navigate this dual role with integrity is one of the tests by which the seven subjects of this textbook should be assessed.

CHAPTER FOUR: BOBBY HAJJAJ

The Reformer from Texas and the Oxford MBA

A Biographical Sketch Across Continents

Bobby Hajjaj presents a biographical profile that is genuinely unusual in the context of Bangladeshi politics, and its unusualness is both his greatest asset and the source of some of his most significant vulnerabilities as a political actor. Born on April 7, 1978, to a family of remarkable social complexity, he completed his schooling at Maple Leaf International School in Dhaka and then traveled to the United States for higher education, graduating from the University of Texas at Austin with a degree in political science in the 1990s. He subsequently earned an MBA from the University of Oxford.

The family background is worth examining because it provides context for both his resources and his political positioning. His father, Moosa Bin Shamsher, is described as a business tycoon and the founder of the labor export industry in Bangladesh. The labor export industry, which involves the recruitment and placement of Bangladeshi workers in the Middle East, East Asia, and elsewhere, has been one of the two pillars of Bangladesh's economic success, alongside the readymade garments sector. It has also been an industry marked by significant exploitation, with migration agents frequently charging extortionate fees that trap workers in debt bondage and with government oversight that has historically been inadequate to protect workers' rights. The relationship between Hajjaj's reform rhetoric and his family's business interests in this industry is a question that has not been extensively examined in public discourse but deserves to be.

His paternal background includes roots in Faridpur District, with a grandfather who was a graduate of the University of Calcutta and an education officer during British rule. His maternal grandfather, Abu Naser Chowdhury, was the last Zamindar of Dulai in Pabna District. This is a fascinating genealogy because it spans multiple social formations: the landed gentry of the colonial Zamindar system, the colonial education service, the post-independence labor export

industry, and now democratic politics. Hajjaj's forefathers included Mullahs, Islamic preachers, on his paternal side, and the last representative of a Zamindari system on his maternal side, with his maternal family claiming origins in Samarkand in Central Asia in the eighteenth century. This is the kind of social history that in any European context would produce a novelist rather than a politician, and it gives Hajjaj's biography a novelistic texture that his political speeches rarely capture.

His experience in the United States during the 1990s, when he worked in state senate and gubernatorial election campaigns while a student at UT Austin and also wrote for the university newspaper, exposed him to a tradition of electoral politics quite different from the Bangladeshi experience. American electoral politics at the state level involves a combination of grassroots organizing, media management, direct voter contact, and data-driven targeting that was considerably more sophisticated in the 1990s than what Bangladeshi politics of the same period deployed. Hajjaj absorbed lessons from this experience that would later inform his approach to citizen mobilization and what he called his "ShopnerDesh" (Dream Country) campaign.

From Jatiya Party to NDM: The Institutional Trajectory

Hajjaj's entry into Bangladeshi politics began, somewhat surprisingly given his subsequent reform credentials, as a Special Adviser to Hussain Muhammad Ershad, the former military dictator who had ruled Bangladesh from 1982 to 1990 and subsequently led the Jatiya Party as a fixture of the parliamentary system's third-force landscape. Ershad's political rehabilitation after 1990 is itself a story worth telling. After the fall of his government through mass protests, Ershad was imprisoned on corruption charges. He was released after serving part of his sentence and returned to active politics, eventually serving in coalition governments with both the Awami League and the BNP. The Jatiya Party under Ershad became something of a political weathervane, shifting alliances to maximize its coalition leverage.

For Hajjaj to join Ershad's operation as a Special Adviser in 2012-2013 requires explanation that goes beyond the surface narrative. The most charitable interpretation is that Hajjaj saw Ershad's national organization as a platform from which to introduce ideas about reform and good governance into the political mainstream. The less charitable interpretation is that he was willing to associate himself with a figure of extremely questionable democratic credentials in order to gain access to political resources and visibility. The truth almost certainly incorporates both interpretations.

His 2013 detention by the Rapid Action Battalion (RAB) for twenty hours, during the period immediately before the controversial 2014 elections, is a significant biographical episode. RAB is a paramilitary force with a deeply troubling record of extrajudicial killings and human rights violations that has been extensively documented by Amnesty International, Human Rights Watch, and other organizations. Its detention of Hajjaj, at a politically sensitive moment, suggests that the Hasina government perceived his activities as potentially disruptive to the managed electoral process it was attempting to conduct. The fact that he survived this detention without prosecution, and indeed emerged to continue his political activities, is itself evidence of the degree to which he operated in a zone where his resources and connections afforded protection that less connected activists could not rely on.

His founding of the Nationalist Democratic Movement (NDM) in April 2017, with its four pillars of Bangladeshi nationalism, religious values, the spirit of independence, and accountable democracy, represented a genuine attempt to articulate a political platform that was neither the secular-progressive tradition of the Awami League nor the religious-nationalist tradition of the BNP and its allies, but something that attempted to synthesize elements of both. The platform's explicit reference to "religious values" as a foundational pillar distinguishes it from the purely secular approach associated with the liberal tradition in Bangladeshi politics, while its emphasis on accountable democracy and good governance distinguishes it from the identitarian conservatism of parties like Jamaat-e-Islami.

Bangladesh 2.0: The Reform Proposal and Its Philosophical Context

The publication of "Bangladesh 2.0: Reform Proposals by NDM" on November 30, 2024, represented Hajjaj's most systematic attempt to articulate a comprehensive vision for political and institutional reform. The document, which calls for collective action to build a better Bangladesh, sits in an intellectual tradition of think-tank-style policy advocacy that is more familiar in North American and European contexts than in Bangladesh, where political discourse has historically been more ideologically oriented and less policy-specific.

The 2.0 metaphor is worth examining. In digital technology discourse, version 2.0 signifies a significant upgrade from version 1.0, usually involving architectural changes as well as feature additions. Applying this metaphor to a nation state implies a view of political reform as analogous to software development: systematic, planned, iterative, and oriented toward measurable improvement. This is a fundamentally technocratic vision of political change, one that presupposes the kind of rational institutional engineering that James Scott criticized in "Seeing Like a State" as potentially dangerous in its inattention to local knowledge, tacit social understanding, and the unpredictable consequences of large-scale social engineering.

Hajjaj's background in business strategy and his Oxford MBA training are visible in this approach. The MBA curriculum, particularly at Oxford's Said Business School, emphasizes strategic planning, stakeholder analysis, performance measurement, and systems thinking. These tools have genuine value in organizational management. Their application to political reform is more contested. Democratic politics involves conflicts of interest and value that cannot be resolved by strategic planning, and the most technically sophisticated reform proposals can fail catastrophically if they do not attend to the political economy of implementation, meaning the distribution of winners and losers under the proposed changes and the ability and willingness of those who stand to lose to block reform.

The specific reform proposals in Bangladesh 2.0, to the extent they are publicly available, include suggestions about electoral reform, anti-corruption mechanisms, decentralization of government authority, and educational reform. These are substantive policy areas with extensive international comparative literature. The quality of Hajjaj's specific proposals in these areas is worth evaluating against that literature, though doing so in full detail would require more space than this chapter allows. What can be said generally is that reform proposals are most likely to succeed when they are grounded in a detailed understanding of the specific institutional context,

when they are sensitive to implementation challenges, and when they build coalitions among those who stand to benefit from the changes.

The BNP Alliance and Its Strategic Logic

The most surprising development in Hajjaj's political trajectory was his decision to leave the NDM that he had founded and join the Bangladesh Nationalist Party, ultimately contesting the 2026 elections as a BNP-aligned candidate in Dhaka-13, where he won a seat and was subsequently appointed State Minister of Primary and Mass Education. This decision requires explanation that goes beyond individual opportunism, though opportunism cannot be entirely excluded as a factor.

The strategic logic of the BNP alliance, from Hajjaj's perspective, can be stated fairly clearly. The BNP was the dominant opposition force in Bangladesh, the party with the organizational infrastructure, the national brand recognition, and the political momentum to potentially win a genuinely competitive election. For a politician whose NDM had achieved intellectual visibility but limited electoral traction, alignment with the BNP offered the prospect of actual power and the ability to implement at least some elements of the reform agenda from within government.

The risks of this strategy are equally clear. By aligning with the BNP, Hajjaj necessarily compromised the third-force, reformist, anti-establishment positioning that had been the NDM's identity. He became associated with a party that, whatever its democratic credentials in opposition, had its own history of governance failures, patronage politics, and internal factionalism. The appointment of a labor export industry scion as State Minister of Primary and Mass Education, while not inherently problematic, invites scrutiny about the degree to which reform commitments will survive contact with the realities of ministerial office in Bangladesh's patronage-heavy political system.

The philosophical tension here is between pragmatism and principled consistency. Isaiah Berlin's distinction between "negative liberty" (freedom from interference) and "positive liberty" (freedom to achieve one's goals) has an analogue in political strategy. The purely principled reformer who refuses any compromise may preserve their intellectual integrity but achieves nothing. The purely pragmatic operator who abandons principles for access achieves power without purpose. The question of how to navigate between these poles is one of the central challenges of political life, and it is a challenge that Hajjaj's career trajectory illustrates with particular clarity.

The ShopnerDesh Movement and Civic Engagement Theory

Before his formal electoral career, Hajjaj's most distinctive contribution to Bangladeshi political culture was the ShopnerDesh citizen empowerment movement, which he launched in 2015. The movement involved traveling to meet people across Bangladesh, listening to their concerns, and attempting to build a civic culture oriented toward constructive engagement rather than purely partisan mobilization. He describes travelling "kilometer after kilometer, mile after mile, to meet people face-to-face and listen to their dreams and struggles."

This approach to political organizing draws on a tradition of civic republicanism that has deep roots in Western political philosophy. Alexis de Tocqueville's account of American democracy in "Democracy in America" emphasized the importance of civic associations and participatory local governance as the foundation of democratic culture. Robert Putnam's influential work on "Bowling Alone" and on civic engagement in Italy documented the importance of "social capital," the networks of trust and reciprocity that enable collective action, for both democratic governance and economic prosperity. Hajjaj's ShopnerDesh can be understood as an attempt to build this kind of social capital in Bangladesh, where it has historically been undermined by the winner-takes-all politics of partisan conflict.

The limitations of this approach are also important to acknowledge. Civic mobilization movements that depend heavily on a single charismatic leader face obvious succession and sustainability challenges. The relationship between the movement's energy and the institutional structures necessary to translate that energy into durable policy change is always problematic. Movements that succeed in generating enthusiasm among participants may struggle when they need to make the transition from inspiration to governance, from mobilization to administration. The question of whether Hajjaj's ministerial position has allowed him to translate the ShopnerDesh vision into actual changes in primary and mass education policy is one that this textbook will examine in its later parts.

CHAPTER FIVE: BARRISTER SUMAN

Public Interest Litigation and the Jurisprudence of Citizens' Rights

The Practice of PIL in Bangladesh: A Framework

Among the more remarkable and institutionally significant aspects of Bangladesh's constitutional jurisprudence has been the development of a tradition of public interest litigation (PIL). PIL, as a distinctive legal mechanism, allows individuals and civil society organizations to petition the courts on behalf of the public interest, even where they have no direct personal stake in the outcome of the case. The doctrine was developed in the Indian Supreme Court in the late 1970s and early 1980s, particularly under the leadership of Justice P.N. Bhagwati, and spread to other South Asian legal systems including Bangladesh.

PIL represents a significant jurisprudential innovation because it challenges the traditional understanding of legal standing. Under the classical common law doctrine, only persons with a direct personal interest in the outcome of a dispute have standing to bring proceedings before a court. PIL relaxes or abandons this requirement, allowing courts to entertain petitions from public-spirited individuals or organizations on matters affecting the general public. The justification for this relaxation of standing requirements comes from several directions. First, there is an argument from access to justice: many violations of public rights and constitutional guarantees affect large numbers of people each of whom has individually insufficient incentive to litigate, but collectively constitute a serious public harm. Second, there is an argument from democratic theory: courts that hear only the cases of those with sufficient resources to litigate are

systematically biased toward the interests of the wealthy and powerful. Third, there is an argument from constitutional supremacy: the constitution's guarantees are addressed to all citizens, and a mechanism must exist for enforcing those guarantees against powerful actors who might otherwise evade accountability.

The practice known as "Barrister Suman" in Bangladeshi public discourse refers most likely to Syed Sayedul Haque Suman, a Bangladeshi lawyer who became well known for filing numerous public interest litigations on a wide range of issues of public concern, from pollution and environmental damage to electoral irregularities and corruption in public institutions. Suman's work represents one of the most sustained applications of the PIL mechanism to the specific conditions of Bangladeshi governance dysfunction.

The Politics of the PIL Practice

PIL litigation in Bangladesh, as in India, is a site of complex negotiations between law and politics. At its best, the PIL mechanism allows courts to remedy constitutional violations that the political branches of government are unwilling or unable to address. At its worst, it becomes what critics call "judicial populism" or "judge-made social policy" in which courts, lacking both the democratic mandate and the administrative capacity to address complex social problems, produce orders that generate expectations they cannot fulfill and disrupt administrative processes without improving outcomes.

The political economy of PIL in Bangladesh has its own distinctive features. Because Bangladesh's political system has historically concentrated power in the executive and the ruling party, the courts have been one of the few institutional locations where challenges to executive authority were possible. This made PIL an important tool for civil society organizations, opposition politicians, and public interest lawyers during periods of executive dominance. But it also meant that PIL activity was subject to political interference, since governments that felt threatened by PIL petitions could and sometimes did bring pressure to bear on the judiciary.

Suman's specific litigation history illustrates both the potential and the limitations of PIL as a mechanism for public accountability. His petitions on matters ranging from consumer protection to electoral integrity were received with varying degrees of judicial receptivity at different times, reflecting the fluctuating independence of the Bangladeshi judiciary. The relationship between the PIL practitioner's legal arguments and the political context in which those arguments are heard is one of the central analytical themes that the detailed examination of Suman's work will illuminate.

Jurisprudential Foundations: Dworkin, Rights, and the "Third Branch"

Ronald Dworkin's jurisprudential framework provides an important analytical lens for understanding the work of lawyers like Suman who engage extensively in rights-based litigation. Dworkin's central argument, developed across "Taking Rights Seriously," "Law's Empire," and other works, is that law is not merely a system of rules but includes principles that constrain judicial decision-making even in "hard cases" where no clear rule applies. Rights, for Dworkin, are "trumps" that override utilitarian calculations of collective welfare. The judicial role is to

identify and apply these rights-based constraints on government action, not simply to predict what existing rules require.

This framework has significant implications for PIL practice. If Dworkin is correct that courts have both the authority and the obligation to enforce rights against the majority will expressed through legislative and executive action, then PIL is not a judicial overreach but an appropriate exercise of the judiciary's constitutional function. The counter-argument, associated with scholars like Jeremy Waldron, is that in a functioning democracy, citizens have equal rights to participate in the political processes that determine the content of law, and that judicial override of democratically enacted legislation in the name of rights is itself a violation of political equality.

In the Bangladeshi context, Waldron's democratic objection to strong judicial review loses some of its force because Bangladesh's democratic processes were, for much of our period of examination, so thoroughly distorted by executive manipulation, electoral fraud, and party politics as to fail the minimal conditions of genuine democratic legitimacy. In a context where democratic processes are working reasonably well, there is a strong argument for judicial restraint and for letting the democratic process resolve disputes about rights. In a context where those processes have failed, the case for robust judicial enforcement of constitutional rights through mechanisms like PIL becomes considerably stronger.

Suman's practice thus needs to be understood not as operating in the idealized conditions that democratic theory assumes but in the specific conditions of a polity in which democratic process failures were severe and systematic. This context affects how we evaluate both the successes and the failures of his PIL work.

Controversial Positions and Public Debate

The career of any public interest litigator inevitably generates controversy, because the very nature of PIL involves challenging powerful actors whose interests are threatened by judicial scrutiny. Suman's litigation history includes cases that earned him both praise as a defender of citizen rights and criticism as a partisan actor using legal mechanisms to advance political agendas.

The accusation of partisanship is one that all PIL practitioners face, and it is worth examining with philosophical care rather than dismissing either as always valid or always specious. The distinction between a genuine public interest case and a partisan legal attack on political opponents is not always clear, and it is a distinction that courts themselves must make when deciding whether to entertain PIL petitions. Courts in most jurisdictions have developed doctrines of "judicial restraint" or "political question" that attempt to keep certain inherently political questions outside the range of judicial competence, and PIL practitioners must navigate these doctrines carefully.

What can be said is that the best PIL practice, as illustrated by the finest traditions of both the Indian and American civil rights litigation models, combines rigorous legal argumentation with genuine commitment to the public good that transcends partisan interests. Whether Suman's

practice achieves this standard in all its dimensions is a question that requires case-by-case analysis, which the later parts of this textbook will undertake.

CHAPTER SIX: MOHAMMAD SHISHIR MANIR

The Advocacy of Conscience and the Limits of Legal Instrumentalism

Profile and Practice

Mohammad Shishir Manir represents the tradition of the courtroom advocate whose public profile has been built not primarily through political affiliation or platform advocacy but through the sustained practice of representing clients in cases with significant public interest dimensions. His practice at the Supreme Court of Bangladesh has included cases touching on fundamental rights, freedom of expression, the rights of defendants in criminal proceedings, and the obligations of state authorities toward citizens.

The tradition within which Manir's practice can be located is the tradition of the defense lawyer as constitutional guardian, the lawyer who takes on cases that the politically connected prefer not to touch, who represents clients who are unpopular, controversial, or accused of offenses that political authorities want the courts to punish regardless of the evidence. This tradition has produced some of the most morally serious figures in the history of the legal profession. In the American context, one thinks of Clarence Darrow. In the English context, of Sir Edward Marshall Hall. In the Indian context, of Ram Jethmalani. In Bangladesh, the tradition is less prominently documented but not less real.

The specific cases in which Manir has been involved span the full range of civil liberties concerns that have characterized Bangladeshi legal and political life over the recent decade. The Digital Security Act (DSA) of 2018 and its successor, the Cyber Security Act (CSA) of 2023, were among the most extensively criticized pieces of legislation in Bangladesh's recent history. Both acts contained provisions that critics argued violated international standards of freedom of expression by criminalizing online speech in vague and overbroad terms. The DSA was used extensively during the Hasina years to arrest and prosecute journalists, bloggers, activists, and opposition figures who criticized the government online. Legal challenges to these acts, and representation of defendants charged under them, required lawyers of considerable courage given the political climate.

The Digital Security Act and Freedom of Expression Jurisprudence

The DSA's section 28, which criminalized publication of material that "deteriorates law and order, prejudices the image of the state or person or hurts religious feelings or incites against any person or organization," was so vague and so broad that virtually any critical commentary about public affairs could potentially fall within its scope. The standard of "hurts religious feelings" was particularly troubling from the perspective of freedom of expression jurisprudence, because

it gave potential applicants for criminal proceedings an almost unlimited license to claim legal protection from criticism.

The international legal standards on freedom of expression, developed through the jurisprudence of the Human Rights Committee under the International Covenant on Civil and Political Rights, the European Court of Human Rights under Article 10 of the European Convention, and the Inter-American Court of Human Rights, consistently hold that restrictions on expression must be provided by law, must be necessary in a democratic society, and must pursue a legitimate aim such as protecting the rights of others or maintaining national security. Vague laws that give authorities broad discretion to suppress speech fail these requirements. Legal challenges to the DSA based on these international standards represented an important contribution to the Bangladeshi rights jurisprudence.

Whether Manir specifically made contributions in this specific area, or in related areas of civil liberties law, is a matter of documented legal record that requires more detailed examination than is possible at this stage of our textbook. What is clear is that the work of advocates who challenged DSA prosecutions and represented DSA defendants during the Hasina period required both legal skill and personal courage, and that this work contributes to the broader tradition of civil liberties advocacy that represents one of the most valuable functions a legal practitioner can perform.

The Problem of Legal Instrumentalism

One of the theoretical tensions that Manir's work, as with all courtroom advocates, raises is what philosophers call the problem of legal instrumentalism. The question is whether a lawyer is morally responsible for the uses to which their legal skills are put, or whether the advocate's role is simply to provide the best possible legal representation to any client who seeks it, leaving moral evaluation to the legal system as a whole.

The dominant tradition in the English and Bangladeshi bar, derived from the "cab rank rule," holds that a barrister must accept any client who seeks their services and is willing to pay the appropriate fee, regardless of the nature of the case or the lawyer's personal views about the client or the cause. The philosophical justification for this rule is that the adversarial system as a whole produces just outcomes when both sides receive vigorous representation, even if any individual case involves advocating for positions that the advocate personally finds unattractive. Allowing lawyers to refuse clients on grounds of personal disapproval would undermine the universality of legal representation that the adversarial system requires.

This justification is powerful but not unlimited. There are cases where advocating vigorously for a client's position requires making arguments that are not merely aggressive but are dishonest, designed to mislead the court, or that risk enabling serious ongoing harm. The ethics of advocacy draw the line at these points. But within the zone of honest and zealous representation, the cab rank tradition holds that the advocate's personal views are irrelevant.

The political context in Bangladesh adds layers of complexity to this analysis. In a legal system that has not maintained consistent independence from political pressure, the question of who

lawyers choose to represent and in what cases carries political valence that it does not carry in a more insulated professional environment. A lawyer who represents opposition politicians in political cases is making a different kind of statement in Bangladesh than in England, because in Bangladesh the decision to take such a case may require accepting greater personal risk and may be read by observers as a political commitment rather than merely a professional obligation.

Controversial Commentaries and Public Discourse

Manir's public commentaries, where these have been visible, tend to focus on systemic issues in the administration of justice rather than on partisan political questions. This orientation, if consistent, represents a laudable attempt to maintain the distinction between the lawyer as advocate for specific clients and the lawyer as participant in public discourse about the quality of the legal system.

But maintaining this distinction is harder in practice than in theory. In Bangladesh, where the administration of justice has been so thoroughly politicized, observations about the quality of the legal system are inevitably read through a partisan lens. Criticism of the court system under the Hasina government could be, and was, characterized by Awami League loyalists as partisan opposition to the government. Criticism of the court system under the post-August 2024 transitional period has been, and is, characterized by different partisan actors as support for the ousted regime. The lawyer who wishes to speak truth to power about the administration of justice must therefore navigate a public discourse environment that is profoundly hostile to the kind of disinterested analysis that the law's own traditions value most highly.

CHAPTER SEVEN: RUMEEN FARHANA

The Solitary Voice and the Price of Principle

The Making of a Legal-Political Figure

Rumeen Farhana's biography is in many respects the most narratively compelling of our seven subjects because it contains the elements of classical tragedy in the sense articulated by Aristotle: a person of high standing and genuine ability whose journey is marked by a fatal flaw or by circumstances that convert strength into vulnerability. Whether the flaw is hers or the system's is a question to which different analysts give radically different answers, and this division of interpretive perspective is itself one of the most interesting things about her story.

Farhana is the daughter of Oli Ahad, a veteran politician who was involved in the language movement of 1952 and became a figure of the Bangladesh Nationalist Party tradition. The language movement, in which Bengali students and intellectuals resisted the Pakistani government's attempt to impose Urdu as the sole national language, is one of the foundational events of Bangladeshi national consciousness. It culminated in the killing of several protesters on February 21, 1952, a date now commemorated internationally as International Mother Language

Day by UNESCO. Growing up as the daughter of a language movement figure placed Farhana within one of the most deeply honored traditions of Bangladeshi political culture.

She was trained in law at the University of London and subsequently practiced as a barrister in the High Court Division of Bangladesh's Supreme Court. She is also a member of the Dhaka Lawyers Association, and she edited the family-founded newspaper Ittehad, carrying forward a journalistic legacy. These multiple roles, barrister, politician, journalist, editor, are unusual in their combination and reflect both her genuine breadth of engagement and the Bangladeshi tradition in which prominent figures operate simultaneously across professional, media, and political spheres.

Her political career within the BNP developed under the mentorship of former Prime Minister Khaleda Zia, who reportedly sent a message from jail in 2018 that if anyone was to represent Brahmanbaria, it should be Farhana. This connection to Khaleda Zia, the BNP's founding figure and long-imprisoned leader, gave Farhana a legitimacy within the party that went beyond what she could have established through her own organizational work alone. It was, in a sense, a form of political inheritance.

The Lone Woman in Parliament

Farhana's role as a Member of Parliament during the 2018-2022 period is of extraordinary historical and analytical significance. The 2018 elections in Bangladesh were deeply compromised. The BNP's seven MPs who managed to win seats (out of 300) despite the systematic suppression of opposition campaigning represented not a genuine parliamentary opposition but something closer to a token presence. And within that already dramatically diminished group, Farhana was singular: the only woman MP from the BNP, and one of the most visible and vocal critics of the Awami League government.

Her role in that parliament requires comparison to the tradition of the parliamentary opposition that Westminster-derived systems theoretically celebrate but that Bangladesh's circumstances had reduced to near-impossibility. The Westminster tradition holds that the opposition in parliament plays a vital constitutional role, not merely as a critic of government policy but as an alternative government in waiting that keeps the executive honest through sustained scrutiny and the threat of replacing it at the next election. An opposition that consists of seven MPs out of three hundred cannot play this role effectively. But Farhana appears to have attempted it nonetheless, using whatever platform the parliament offered to challenge the government's account of itself and its actions.

Her 2024 declaration in parliament that the election was illegal, addressed directly to Prime Minister Sheikh Hasina, is described as a defining moment in her political career. The courage required to make this statement in that forum cannot be minimized. In a parliament where the ruling party held an overwhelming majority, where the opposition was already in extreme precarity, and where the government had demonstrated its willingness to use the full apparatus of state power against those who challenged it seriously, making a public declaration of the election's illegality to the Prime Minister's face was an act of considerable personal and political risk.

The substantive legal argument underlying this declaration merits examination. The claim that the 2024 elections (or more precisely the elections in which Farhana served, the 2018 elections) were illegal would need to rest on one of several possible grounds: that the electoral process violated the constitutional requirements for genuine competitive elections, that the administration of the elections involved systematic fraud sufficient to invalidate the results, that the suppression of opposition participation invalidated the electoral process as a whole, or that the conditions under which the elections were held violated Bangladesh's international treaty obligations including its obligations under the ICCPR to hold genuine periodic elections.

Each of these grounds has some legal support, and international observers' assessments of the 2018 elections were consistently negative. But the declaration that elections are "illegal" is a stronger claim than the factual observations about irregularities on which it is based, and it raises questions about the legal authority competent to make such a declaration, the consequences of such a declaration for the legal validity of parliamentary proceedings, and the remedies available to those who assert that elections are illegal.

These are not merely abstract questions. They are precisely the questions that Bangladesh's legal system was grappling with in 2024 and 2025 as it attempted to construct a framework for the transition from the Hasina government to whatever came next.

The Expulsion and Its Significance

Farhana's expulsion from the BNP in December 2025, following her decision to contest the 2026 elections as an independent candidate after the party allocated her Brahmanbaria-2 constituency to an alliance partner, is one of the most instructive episodes in our study of internal party conflicts and the tensions between individual political conscience and organizational loyalty.

The facts of the matter, as reconstructed from available reporting, are essentially as follows. Farhana had been working in the Brahmanbaria-2 constituency since 2017. In 2018, she was asked to step aside for a senior leader with a promise that 2024 would be her turn. When 2024 arrived, the party finalized her candidacy and she received confirmation from senior party figures including the Home Minister. Then, the party allocated the seat to Jamiat Ulema-e-Islam Bangladesh as part of the alliance negotiation, and Farhana's nomination was effectively cancelled without adequate explanation or apology.

Her response was to declare her intention to contest independently, which she did, and which led directly to her expulsion from the party. She won the Brahmanbaria-2 constituency as an independent candidate by a margin of approximately 38,000 votes in the February 2026 election, a result that simultaneously vindicated her assessment of her own local support and demonstrated the strength of her grassroots connections.

This episode raises important questions in political philosophy about the relationship between the individual political actor and the political party as an organizational entity. Political parties are not merely vehicles for individual ambition. They are institutions with collective identities, organizational histories, shared ideological commitments, and disciplinary structures that enable collective action. The ability of a party to maintain discipline, including the ability to enforce its

decisions about candidate selection against members who disagree, is fundamental to its functioning as an institution.

At the same time, political parties in a democratic system derive their legitimacy from the free choices of their members and supporters. If a party systematically treats its most loyal and capable members as expendable when their interests conflict with internal factional bargaining, it undermines the sense of commitment and investment that makes party membership valuable. Farhana's case is one in which the party's institutional interest in maintaining alliance discipline conflicted with the individual member's reasonable expectation that years of service and demonstrated electoral viability would be rewarded with a nomination.

The bitter irony of her situation, as she expressed it in her interviews, is captured in her observation that she had stood alone in parliament challenging the Awami League's hegemony for years, while many of the party figures who now outranked her in the BNP hierarchy had been, as she put it, hiding abroad or ducking under tables. The moral logic of her position, that those who accepted greater risk and made greater sacrifices should have greater claims on the party's support, is intuitively compelling. The organizational logic of the party's position, that candidate allocation must be based on strategic considerations including alliance maintenance rather than purely on individual merit and service, is also defensible. The clash between these two logics is the substance of the conflict.

The Constituency Boundary Controversy and the August 2025 Scuffle

The events of August 24, 2025, when a physical altercation broke out between Farhana's supporters and members of the National Citizen's Party at a public hearing on constituency boundary delimitation, represent a different kind of controversy, one that moves from philosophical and institutional questions toward the raw dynamics of political competition and personal confrontation.

The incident occurred at the Election Commission headquarters in Dhaka, during a hearing on the delimitation of the Brahmanbaria-2 and Brahmanbaria-3 constituencies, in front of the Chief Election Commissioner and other election officials. Farhana alleged that she was physically shoved by BNP supporters, and she expressed deep frustration that people for whom she had fought for fifteen years were now treating her in this way. NCP leaders, for their part, accused Farhana's followers of initiating the violence.

The subsequent escalation, including Hasnat Abdullah's comment calling her "BNP's Awami League affairs secretary," a term designed to suggest she was covertly working for the opposition's old rival, illustrates the vicious quality of Bangladeshi political discourse at its worst. This kind of labeling, designed not to analyze or critique but to destroy credibility through association with the opponent's most reviled enemy, is a rhetorical strategy that undermines the possibility of substantive public debate. It also illustrates the dynamics of political polarization, in which the middle ground becomes progressively untenable as political actors on each side are pressured to demonstrate their loyalty by attacking those on the other side with maximum intensity.

From a political psychology perspective, the dynamics here can be understood through the lens of Henri Tajfel's social identity theory, which holds that individuals define themselves partly through membership in social groups and that in-group loyalty and out-group hostility are self-reinforcing dynamics. In the context of Bangladeshi politics, where the BNP-AL divide has been so comprehensive and so sustained, any figure who is perceived as insufficiently hostile to the "enemy" risks being labeled a traitor or a double agent. Farhana's independent candidacy, which required her to reject the BNP's organizational discipline, created precisely the ambiguity that this kind of labeling exploits.

The Gender Dimension: Structural Analysis

One of the most important and underanalyzed aspects of Farhana's career is the structural gender dimension of her political experience. She is the most prominent female figure among our seven subjects, and her trajectory illuminates the specific ways in which gender operates as a factor in Bangladeshi legal-political culture.

She won her initial parliamentary seat as a reserved women's member, reflecting the constitutional provision for reserved seats for women in the Bangladeshi parliament. This system has been both celebrated as a mechanism for ensuring minimal female representation and criticized as a tool for political patronage, since reserved seats are typically allocated by the party leadership rather than contested through competitive elections. Farhana's subsequent transition to contesting a general seat in an open election represents the more demanding form of political participation, and her victory by 38,000 votes demonstrates that she could compete effectively in this mode.

Her comment in her 2026 parliamentary speech, asking why women who were at the forefront of the 2024 protests seemed to have disappeared from political power once the protests succeeded, reflects an observation that comparative literature on women in revolutionary politics documents extensively. Women frequently play crucial roles in mass movements and popular uprisings, only to find themselves marginalized when the movement transitions to institution-building and power allocation. This pattern has been documented in contexts as diverse as the French Revolution, the Iranian Revolution, the Arab Spring, and the 2011 uprisings in the Middle East and North Africa.

The philosophical dimensions of this observation connect to feminist political theory, particularly the work of scholars like Iris Marion Young, whose concept of "structural injustice" identifies patterns of social organization that systematically disadvantage certain groups not through the malicious intent of individual actors but through the accumulated effects of social norms, institutional practices, and cultural expectations. The marginalization of women in Bangladeshi politics after the 2024 uprising is not the result of any single individual's decision to exclude women. It is the result of structural patterns in which political organizations, resource allocation, and social expectations systematically reproduce male dominance in leadership positions even in contexts that nominally celebrate gender equality.

Farhana's further observation that women are needed at the front of marches, standing as shields against police tear gas and batons, but are treated as objects once everything is settled, captures

this structural dynamic with searing accuracy. The use of women's bodies as physical buffers in protest situations, followed by their exclusion from the political dividends of successful protest, is a pattern that feminist scholars have identified as a form of double exploitation. Women bear disproportionate physical risk in political mobilization while receiving disproportionately small shares of political reward.

The Property Controversy and Questions of Hypocrisy

No balanced account of Farhana's career can omit the controversy that arose in August 2019, when her application to the Ministry of Housing for a 10-katha plot in Dhaka's Purbachal New Town Project was leaked to the public. The application contained the statement that she did not have any plot of land in Dhaka city, a claim that critics said contradicted her 2018 election affidavit, which confirmed her ownership of a flat in Dhaka. The contrast between her role as a vocal critic of the Awami League government and her application for a state-allocated asset generated accusations of hypocrisy.

The philosophical concept of hypocrisy is worth examining carefully in this context. The accusation of hypocrisy, at its most basic, is the accusation that a person's private behavior fails to match their public advocacy. For a politician who advocates accountability and transparency, being caught in an apparent discrepancy between public statement and private action is damaging because it undermines the very standards they claim to uphold.

However, context matters. Any member of parliament could apply for such an allotment, and the application itself was not illegal. The discrepancy between the statement "I do not have any plot of land in Dhaka" and the existence of a flat in Dhaka is significant as a matter of literal accuracy but may be less significant if "plot of land" is understood as referring to an empty plot rather than a developed flat, though this interpretation requires more charity than Farhana's critics were prepared to extend. The leaking of the application from the ministry was itself suspicious and suggested that the Awami League government was using its access to administrative information as a political weapon against opposition MPs.

The episode illustrates a broader problem in political culture. When state resources including plots of land, housing allocations, and public contracts are distributed through political channels rather than through transparent rule-based processes, politicians of all parties are placed in a structurally compromised position. They may criticize the system publicly while individually seeking to benefit from it, not because they are uniquely hypocritical but because the structural incentives push everyone in the same direction. The solution to this kind of structural hypocrisy is institutional reform of the distribution systems, not simply the punishment of individual beneficiaries.

CHAPTER EIGHT: ANDALEEVE RAHMAN PARTHO

Dynasty, Democracy, and the Law of Bhola

A Life Between Zamindar Heritage and Parliamentary Practice

Andaleeve Rahman Partho, born on April 20, 1974, is the most dynastically positioned of our seven subjects, a fact that is simultaneously a resource and a complication for his political and legal career. His father, Naziur Rahman Manzur, was not only a politician and former minister but the founding Chairman of the Bangladesh Jatiya Party (BJP) and Mayor of Dhaka. His maternal uncle was Sheikh Fazlul Huq Moni, the founder of Bangladesh Jubo League, a figure of the Liberation War generation. His family's ancestral roots in Bhola Island connect him to the Zamindari tradition, with his family described as the Zamindars of Balia, and through his paternal line, he traces descent from an eighteenth-century figure who arrived in Bengal from Garmsir in Afghanistan and settled in greater Barisal.

This genealogy is not simply biographical trivia. In the sociology of South Asian politics, family backgrounds of this kind carry significant political capital. The Zamindari tradition, though the legal institution of Zamindari was abolished by land reform in East Pakistan in 1950, left behind social networks, community loyalties, and cultural authority that continue to influence local politics. The connection to the Liberation War generation through his father's status as a freedom fighter adds another layer of legitimacy. And the connection to Sheikh Fazlul Huq Moni gives Partho a link to the Awami League's founding generation even though the BJP has been aligned with the BNP-led opposition.

His educational journey led him to St. Joseph High School in Dhaka before departure to London for his LLB studies. He passed his Bar Exam at Lincoln's Inn in 1997, the second of the four Inns of Court, which has produced an equally distinguished roster of barristers. He returned to Bangladesh and worked as an apprentice under Barrister Rafiqul Haq, one of the most prominent lawyers in Bangladeshi legal history. This apprenticeship under a figure of such eminence was an important professional formation, giving Partho access to the highest levels of Bangladeshi legal practice at the beginning of his career.

The British School of Law and Legal Education Philosophy

One of the most distinctive aspects of Partho's professional life is his role as Principal of the British School of Law in Dhaka. This institution represents an attempt to bring a version of English-style legal education to Bangladesh, providing Bangladeshi students with access to legal training that combines elements of the English legal tradition with knowledge of Bangladeshi law and legal practice.

The philosophy of legal education implicit in the British School of Law model connects to a broader debate about the appropriate content and method of legal training in postcolonial societies. The debate has at least two dimensions. First, there is a curricular question: Should legal education in Bangladesh emphasize the English common law tradition, given Bangladesh's legal system's deep indebtedness to that tradition, or should it emphasize locally developed legal materials and principles that reflect Bangladesh's specific social and cultural context? Second, there is a methodological question: Should legal education follow the case-method associated with American law schools, the apprenticeship tradition of the English Inns of Court, or a more doctrinal and lecture-based approach associated with civil law university traditions?

The postcolonial legal theory perspective, drawing on scholars like Upendra Baxi and Yash Ghai, argues that legal education in postcolonial societies should be critically attentive to the ways in which inherited legal frameworks may embed colonial assumptions that are ill-adapted to local social realities. The legal concepts and categories developed in the context of English society and English social relationships do not map perfectly onto Bangladeshi society, and uncritical reproduction of English legal education in a Bangladeshi context may produce lawyers who are technically competent within a system of conceptual categories that are partially alien to the social reality they are supposed to regulate.

Partho's British School of Law presumably navigates this tension in its curriculum, though the specifics of how it does so are not fully documented in the sources available to this textbook. What is significant is that his commitment to legal education as a form of professional development and as a contribution to Bangladeshi legal culture places him in a tradition of lawyer-educators who see their responsibility as extending beyond their own practice to the cultivation of the next generation of legal professionals.

The Jatiya Party and Third-Force Politics: A Comparative Analysis

Partho's leadership of the Bangladesh Jatiya Party (BJP) adds another dimension to our analysis of third-force politics in Bangladesh. Unlike the AB Party of Fuad or the NDM of Hajjaj, the BJP has an older organizational history rooted in his father's political legacy. It does not, however, have the mass organizational infrastructure of the BNP or the Awami League.

The BJP's alignment within the BNP-led opposition coalition illustrates the structural dynamics of coalition politics in Bangladesh. The BNP, facing the combined organizational strength and electoral machinery of the Awami League during the Hasina years, built a coalition of allied parties that could contribute organizational capacity, community connections, and electoral support in specific constituencies. The BJP, with its base in Bhola and its historical connection to the Zamindari networks of the coastal south, was a valuable coalition partner in specific geographic areas.

The allocation of Dhaka-17 to Partho for the 2026 elections, and his subsequent election from that constituency, represents the coalition system working as intended. The BNP did not field a candidate, directing its organizational infrastructure to support Partho instead, and he won the seat. This success demonstrates both the value of coalition politics as a mechanism and the degree to which electoral success in Bangladesh depends on organizational support from established party structures rather than purely on individual candidate quality.

The Social Media Controversy and the Duck Meat Commentary

The episode involving Partho and government adviser Asif Mahmud in August 2025 illustrates the way in which social media has transformed political discourse in Bangladesh and created new forms of both accountability and irresponsibility. When Mahmud made comments about going to Neela Market to eat duck meat after working late, or alternatively going to The Westin Dhaka when the market was closed, Partho responded with a social media post that has been widely cited: "Once he searched for rice in the canteen, now he searches for duck in the Westin."

The rhetorical effectiveness of this post is undeniable. It captures, in a single memorable image, a critique of what Partho and other opposition politicians were describing as the rapid acclimatization of post-uprising reformers to the privileges of power, the transformation from idealistic student leaders eating in campus canteens to sophisticated consumers of Westin Dhaka dining. The implication, that the moral claims of the 2024 uprising had been compromised by precisely this kind of luxury consumption, is politically potent.

The analytical limitations of this kind of commentary are equally notable. A politician dining at a luxury hotel is not evidence of corruption. The quality of someone's food choices says nothing about the quality of their policy decisions. Using personal consumption choices as a proxy for political integrity is a form of ad hominem reasoning that misleads more than it informs. It is also precisely the kind of political attack that has historically been deployed to destroy reformers rather than to engage seriously with their reform proposals.

From a philosophical perspective, this episode illustrates what Frankfurt School theorist Jurgen Habermas would call the "colonization of the public sphere" by strategic communication. Habermas's theory of communicative action distinguishes between communicative rationality, communication oriented toward mutual understanding and the force of the better argument, and strategic rationality, communication oriented toward achieving specific goals regardless of the validity of the arguments used. The public sphere, Habermas argues, is supposed to be a space of communicative rationality, in which citizens deliberate about public matters on the basis of reasons. When it is colonized by strategic communication oriented purely toward political advantage, the quality of public deliberation deteriorates.

Partho's social media post is strategic rather than communicative in Habermas's sense. It is designed to score a political point, not to advance a serious argument about governance or reform. In this respect, it is no different from hundreds of similar posts by politicians of every party. The point is not that Partho is uniquely guilty of this kind of communication but that the pervasiveness of strategic communication in contemporary Bangladeshi political discourse creates serious barriers to the kind of public deliberation that democratic self-governance requires.

CHAPTER NINE: JURISPRUDENTIAL SYNTHESIS

Common Themes and Theoretical Frameworks

The Question of Legal Consciousness

Examining the seven figures together, across the diversity of their backgrounds, affiliations, and specific controversies, several common theoretical themes emerge that deserve systematic analysis. The first of these is the question of legal consciousness: the degree to which legal training and legal practice shape political thinking and political behavior.

Patricia Ewick and Susan Silbey's sociological study of legal consciousness, "The Common Place of Law," identified three forms of legal consciousness among ordinary citizens: those who stand "before the law" and experience it as a transcendent and external system, those who work "with the law" and see it as a game to be played strategically, and those who resist the law and experience it as an instrument of domination. Legal professionals, one might expect, would have a sophisticated relationship to these multiple stances, able to move between them strategically as the situation requires.

Among our seven subjects, this sophistication is present to varying degrees. Fuad's institutional analysis of Bangladesh's governance failures draws on the transcendent stance, invoking the rule of law as an ideal against which existing practice is found wanting. But his political advocacy is clearly strategic, using legal rhetoric to advance partisan positions within the game of politics. Farhana's parliamentary challenges to the Hasina government drew on both the transcendent stance and the resistance stance, invoking constitutional principles as trumps against government action while positioning herself as a resister against an illegitimate order. Majumdar's work on international criminal law engaged extensively with the transcendent stance, while his political commentary in exile moved between strategic and resistance modes.

The ability to move between these modes is politically useful but philosophically risky. The danger is that the invocation of transcendent legal values becomes purely instrumental, a rhetorical device deployed when convenient and abandoned when inconvenient. The most serious challenge to any of our seven subjects' intellectual integrity is precisely this: Do they invoke legal principles because they genuinely believe in them as constraints on all political actors including themselves, or do they invoke them selectively, when the principles support their own positions, while quietly abandoning them when the same principles would constrain their own behavior or that of their allies?

The Colonial Inheritance and Its Double Bind

All seven of our subjects are products of a legal system that was substantially designed during the British colonial period and has been modified, but not fundamentally transformed, by independence. This colonial inheritance creates a double bind that postcolonial legal theorist Boaventura de Sousa Santos has characterized as the tension between abyssal thinking and cosmopolitan legality.

Santos argues that colonial legal systems created what he calls an "abyssal line" between the zone of metropolitan law, characterized by rights, contracts, and formal equality, and the colonial zone, characterized by appropriation, violence, and informality. The formal legal systems of postcolonial states like Bangladesh operate within the metropolitan framework of rights and contracts while being embedded in social realities that are still substantially shaped by the colonial zone's logics of power and extraction.

For our seven subjects, this means that their legal training equips them with a sophisticated vocabulary of rights, constitutionalism, and the rule of law, while their practice occurs in a social reality in which these principles are routinely violated, selectively enforced, and instrumentalized by power. The tension between the vocabulary and the reality creates a kind of cognitive

dissonance that resolves itself differently in different individual careers. Some respond by deepening their commitment to the formal principles, becoming more insistent about the importance of rule of law even as they acknowledge its frequent violation. Others respond by becoming increasingly cynical about formal legality while remaining able to deploy its vocabulary when useful. Still others attempt to develop alternative legal frameworks better adapted to the local reality, drawing on both formal law and informal normative systems.

Power, Privilege, and the Structural Position of the Bar

A critical dimension of any analysis of these seven figures is an honest accounting of the structural position they occupy. All seven are members of the legal profession, which in Bangladesh is a privileged profession in terms of both income and social status. Several of them come from family backgrounds of considerable social and economic advantage: Partho from a Zamindar and ministerial family, Hajjaj from a business tycoon family, Farhana from a politically prominent family. Even those who come from more modest backgrounds, like Fuad whose father was a freedom fighter and cultural activist, have accessed elite educational resources through their legal training.

This structural position is not a moral failing. But it is a relevant analytical fact. The ability to attend the University of London, to be called to the bar by one of the Inns of Court, to practice before the Supreme Court of Bangladesh, all of these require resources, connections, and opportunities that are not equally distributed across Bangladeshi society. When these figures speak about reforming institutions, ending corruption, protecting citizens' rights, or defending the public interest, they do so from positions of substantial privilege relative to the populations most affected by institutional failure.

Critical legal scholars, building on the work of Roberto Unger and the American critical legal studies movement of the 1980s, argue that law tends to reproduce the social hierarchies within which it operates, and that legal reforms proposed and implemented by elite actors tend to be limited in ways that protect the privileges of the legal elite even while addressing some of the most egregious forms of social injustice. This is not an argument for inaction or for dismissing reform proposals because they come from elite actors. It is an argument for analytical attentiveness to the limits of reform proposals that do not fundamentally challenge the structural conditions of their proponents' own privilege.

The Media Environment and the Transformation of Legal-Political Discourse

All seven of our subjects operate in a media environment that has been transformed almost beyond recognition by social media, digital communication, and the collapse of traditional gatekeeping mechanisms in journalism. The implications of this transformation for legal-political discourse are profound.

In the pre-social-media era, a barrister's public profile was built slowly through court appearances, published legal opinions, and occasional media interviews. The audience for legal-political commentary was relatively small and educated. The standards of discourse were, at least

nominally, those of legal argument: careful reasoning, acknowledgment of complexity, and willingness to engage with counter-arguments.

Social media has expanded the audience for legal-political commentary to include virtually the entire literate population of Bangladesh, and has changed the norms of discourse in ways that reward clarity, passion, brevity, and emotional resonance over careful reasoning, acknowledged complexity, and engagement with counter-arguments. The Facebook posts, YouTube videos, Twitter statements, and television panel appearances that constitute the primary medium through which our seven subjects communicate with most of their audience operate according to norms that are in fundamental tension with the norms of legal reasoning.

This tension is not unique to Bangladesh. The "mediatization" of politics, the increasing subordination of political communication to the logic of media formats, has been documented across democracies. But in Bangladesh, where the formal institutions of democratic deliberation have been so severely compromised, the public sphere constituted by social media and television political commentary has become unusually important as a venue for debate about public affairs. The quality of that sphere, and the contribution of legally trained figures like our seven subjects to its quality or degradation, is therefore of particular significance.

The Question of Independence: Intellectual and Institutional

Running through all of our analysis in Part One is the question of intellectual and institutional independence. Can a lawyer who is also a politician maintain genuine intellectual independence in legal analysis? Can a party politician advocate for institutional reforms that would constrain their own party's future power? Can a barrister in a deeply politicized legal environment provide professional services that are genuinely independent of partisan considerations?

The answers that our seven subjects give to these questions, through their actions and statements rather than their self-descriptions, will be the central analytical focus of the textbook's subsequent parts. What Part One has established is the intellectual, historical, and biographical framework within which those questions will be examined. The constitutional architecture and its fractures, the colonial inheritance and its implications, the structure of the legal profession and its political entanglement, the specific biographical trajectories that have brought each figure to their current position: all of these provide the context without which the specific controversies, statements, and conflicts examined in later parts cannot be adequately understood.

CHAPTER TEN: THEORETICAL DEEPENING

Jurisprudential Schools and Their Relevance to Bangladesh

Natural Law Theory and the July Uprising

The July-August 2024 uprising raises natural law questions in their most acute form. Natural law theory, in its various manifestations from Aquinas through Finnis, holds that there are moral

principles discoverable through reason that constitute the ultimate standard for the validity of positive law. An unjust law, on this view, is not merely morally objectionable but is deficient as law, failing to bind in conscience even if it formally commands.

The killing of approximately 1,400 people, including 180 children, by a government using state security forces against unarmed civilians protesting peacefully and demanding reform is, by any meaningful application of natural law principles, an instance of grave injustice. The laws and orders that authorized, enabled, or failed to prevent this killing were therefore, on natural law grounds, deficient as genuine legal obligations. The popular uprising that brought down the government responsible for these killings was, on natural law grounds, not a lawless rebellion but a justified response to the most fundamental kind of governmental failure.

This natural law justification of the uprising is relevant to all seven of our subjects, though they engage with it to different degrees and in different registers. Fuad's institutional analysis accepts the uprising as a legitimate rupture with the old order. Farhana's account of herself as the "only person who stood in parliament and declared the election illegal to the Prime Minister's face" invokes the natural law tradition implicitly, positioning herself as someone who recognized and declared the illegitimacy of an unjust legal-political order before the uprising made that recognition universal. Majumdar's situation is more complex, since his association with the Awami League tradition puts him in the position of having supported, or at least not challenged, the government that was responsible for the killing, and his subsequent repositioning requires either acknowledgment of past error or an account of why his previous association does not implicate him in the government's actions.

Rawlsian Justice and the Distribution of Political Opportunities

John Rawls's theory of justice provides another theoretical lens through which to examine the careers and conflicts of our seven subjects. Rawls's "veil of ignorance" thought experiment asks us to design principles of justice from a position in which we do not know our own place in the social structure, our natural abilities, or our conception of the good. The principles that rational actors would choose from behind this veil of ignorance, Rawls argues, include a principle of equal basic liberties and a "difference principle" holding that social and economic inequalities are just only if they benefit the least advantaged members of society.

Applied to Bangladeshi politics, the Rawlsian framework asks a simple but penetrating question: Do the political institutions and practices that our seven subjects either defend or seek to reform benefit those at the bottom of Bangladeshi society? The answer, in most cases, is troublingly negative. Bangladesh is a country in which political institutions have historically been designed and operated to benefit political elites, business interests connected to political parties, and the professional classes, at the expense of the urban working class, rural poor, and historically marginalized communities.

The reform proposals that several of our subjects have advanced do not, for the most part, address this distributive dimension of political injustice. Anti-corruption rhetoric, institutional reform proposals, and constitutional innovation all have their value, but they are most obviously beneficial to those who are already within the system of formal politics and formal law. The

question of how to extend the benefits of legitimate governance to those who have historically been excluded from it is one that the textbook's later parts will examine in connection with each subject's specific policy positions and advocacy.

Critical Race Theory and Postcolonial Critique

Critical race theory (CRT) and postcolonial critique provide additional analytical tools for understanding the social dimensions of our subjects' careers and the legal system within which they operate. While CRT was developed primarily in the American context as a tool for understanding the persistence of racial hierarchy despite formal legal equality, its methodological insights, particularly the attention to structural inequality, the critique of "colorblindness" or formal neutrality as a mask for substantive inequality, and the emphasis on "counter-storytelling" as a mode of revealing systemic injustice, translate with appropriate modifications into the Bangladeshi context.

In Bangladesh, the relevant categories of structural inequality include class, religion (Muslim majority versus Hindu, Christian, and Buddhist minorities), ethnicity (Bengali majority versus the multiple indigenous communities of the Chittagong Hill Tracts and elsewhere), and gender. The legal system's formal neutrality, its professed blindness to these categories in determining legal rights and obligations, coexists with substantial substantive inequality in practice. Access to the courts, the quality of legal representation available, the likelihood of police brutality, the probability of obtaining bail, the chance of a fair trial: all of these vary systematically along the lines of class, religion, ethnicity, and gender.

Several of our subjects have at various points engaged with these dimensions of inequality in their legal and political advocacy. Farhana's commentary on gender inequality in political representation is the most visible example. The degree to which others among our subjects have addressed the full range of structural inequalities, including those affecting religious and ethnic minorities, is a question that this textbook will address in its later examinations of their specific advocacy positions.

Global Constitutionalism and Bangladesh's Constitutional Moment

The constitutional reform process that Bangladesh has been undergoing since 2024 occurs in the context of what comparative constitutional theorists call "global constitutionalism," the increasing convergence of constitutional systems around a set of shared principles including democracy, human rights, and the rule of law, mediated by international institutions, treaty obligations, and the influence of international human rights organizations.

Ran Hirschl's concept of "comparative constitutional law" and his critique of what he calls "juristoracy," the rule of judges and lawyers over fundamental political questions, is relevant here. Hirschl argues that the global spread of judicial review and rights-based constitutionalism has in many cases benefited professional and economic elites at the expense of democratic majorities, as legal elites have used constitutional courts to entrench their own values and interests against majoritarian democratic challenge.

In the Bangladeshi context, the Constitutional Reform Commission's proposals for an expanded bill of rights, a bicameral parliament, and term limits represent an engagement with global constitutionalism that requires evaluation both on its own terms and in terms of the distributive politics it will produce. Who benefits from these constitutional changes? Which actors are empowered and which are constrained? How do the proposed changes relate to the specific conditions of Bangladeshi society and the specific failures of its political institutions?

All seven of our subjects have positions, implicit or explicit, on these constitutional questions. In the subsequent parts of this textbook, those positions will be examined in detail against the background of comparative constitutional experience and theoretical analysis.

The Future of Accountability: International Criminal Law and Transitional Justice

The ongoing trial of Sheikh Hasina before the reconstituted International Crimes Tribunal for crimes against humanity committed during the 2024 protests, combined with the related proceedings against numerous figures from the Awami League government, places Bangladesh in the company of a growing number of societies that have attempted to use international criminal law mechanisms to address large-scale political violence. This development is of direct relevance to several of our subjects.

Majumdar's scholarly work on international criminal law gives him particular expertise in the theoretical and doctrinal questions raised by the Tribunal's proceedings. His personal complications, given the murder case filed against him in related proceedings, give those questions a practical urgency that purely academic analysis lacks. Farhana's political positions on accountability and institutional reform are directly affected by the Tribunal's proceedings and the political dynamics they generate. Fuad's institutional analysis of Bangladesh's governance structures provides a framework for understanding why accountability mechanisms succeed or fail. And Hajjaj, as a new minister of state, is positioned within the government that is overseeing these accountability processes.

The theoretical literature on transitional justice provides an important framework for evaluating these proceedings. Ruti Teitel's work on transitional jurisprudence argues that legal measures in transitional societies, including criminal trials, truth commissions, and reparations programs, have a distinctive character that reflects the political and social transformation in which they are embedded. They are simultaneously about punishment, truth-telling, deterrence, institutional reform, and political legitimation, and these multiple goals are often in tension with each other.

The specific tensions in the Bangladeshi case include the tension between the desire for comprehensive accountability, including accountability for those in the current coalition who may have engaged in violence or other misconduct, and the political dynamics of a newly elected government that relies on the cooperation of political forces with their own accountability vulnerabilities. They also include the tension between the international legal standards of fair trial that give proceedings their legitimacy and the political desire for swift and decisive accountability that may push toward procedural shortcuts.

How these tensions are resolved, and what role our seven subjects play in their resolution, will be among the central themes of the textbook's later parts.

CHAPTER ELEVEN: CONCLUSION TO PART ONE

Setting the Stage for Deeper Analysis

Part One of this textbook has established the foundational intellectual, historical, and biographical architecture necessary for the deeper analysis that will follow in Parts Two through Seven. We have examined the constitutional history of Bangladesh and the jurisprudential significance of its multiple crises and transformations. We have introduced each of our seven subjects in sufficient biographical and intellectual depth to enable meaningful analysis. We have deployed a range of jurisprudential and philosophical frameworks, from natural law theory and legal positivism through critical legal studies, feminist jurisprudence, transitional justice theory, and global constitutionalism, to illuminate the careers and controversies of our subjects.

Several themes have emerged with particular clarity from Part One's analysis and will be developed with greater depth and specificity in subsequent parts.

The first is the tension between legal professionalism and political partisanship. All seven of our subjects are lawyers, and all seven are political actors. The degree to which they maintain genuine intellectual independence in their legal analysis, resisting the temptation to bend legal reasoning to serve partisan political goals, is one of the central evaluative questions running through this textbook.

The second is the structural dimension of Bangladeshi political dysfunction. The problems that all seven subjects seek to address, corruption, weak institutions, electoral fraud, democratic deficits, lack of accountability, are not primarily problems of individual moral failure. They are structural problems rooted in the incentive systems, organizational logics, and historical inheritance of Bangladeshi political institutions. Reform proposals that focus on individual behavior rather than structural change are likely to be insufficient, and this insufficiency is detectable in the advocacy of several of our subjects.

The third is the gender dimension of Bangladeshi legal-political culture. Farhana's trajectory illuminates the specific ways in which gender operates as a structural constraint on political participation and advancement, and her case raises broader questions about whether the reform programs advocated by our subjects adequately address the structural conditions that systematically exclude women and other marginalized groups from full political participation.

The fourth is the international dimension of the moment. Bangladesh's post-August 2024 political transition occurs in a global context of democratic backsliding, authoritarian resurgence, geopolitical competition, and contested international norms. The positions our seven subjects take on questions of sovereignty, foreign relations, international accountability, and the relationship between domestic law and international legal obligations are not merely technical

legal questions. They are positions in a global political contest about the future of democracy and the rule of law.

The fifth and perhaps most fundamental theme is the question of legitimacy. What makes a government legitimate? What makes a law legitimate? What makes a claim to power legitimate? These are the oldest questions of political philosophy, and they remain urgent and unresolved in the Bangladeshi context. The answers that our seven subjects give to them, through their actions and statements rather than their abstract philosophical positions, will be the subject of the analysis that follows in Parts Two through Seven.

This textbook does not offer final answers to these questions. It offers analytical frameworks, historical context, biographical detail, theoretical perspective, and critical evaluation intended to help readers think more carefully, more completely, and more honestly about the extraordinary political and legal drama that is unfolding in Bangladesh, with our seven subjects as some of its principal actors.

The drama is not over. The 2026 elections have produced a new parliament and a new government. The International Crimes Tribunal continues to hear evidence. The constitutional reform process continues to unfold. The tensions between the BNP government's consolidation of power and the reformist aspirations of various political forces, including some of our seven subjects, continue to play out in ways that will produce new controversies, new statements, and new episodes for analysis. Parts Two through Seven will track these developments as they occur, examining them through the theoretical and biographical frameworks established in Part One.

Readers who have followed the analysis in Part One should come away with the following understanding: these seven figures are neither heroes nor villains, but complex human beings whose careers embody the contradictions, aspirations, failures, and occasional triumphs of a political and legal culture in profound transition. Understanding them requires understanding the system that shaped them. Understanding the system requires examining them. The dialectic between structure and individual, between the logic of institutions and the choices of persons, is the animating dynamic of this textbook.

Part Two will take up the most intense controversies of the post-August 2024 period, examining each subject's role in the political and legal battles of the transition with the detailed analysis that Part One's foundations enable.

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End of Part One

Part Two: Controversies in the Transition, the Accountability Debates, and the Internal Party Conflicts of the Post-August 2024 Period

Part Three: Jurisprudential Analysis of Specific Legal Positions and Their Philosophical Foundations

Part Four: Gender, Representation, and the Structural Politics of the Bar

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Part Two: Controversies in the Transition, Accountability Debates, and Internal Conflicts of the Post-August 2024 Period

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PREFACE TO PART TWO

Part One of this textbook established the constitutional architecture, the biographical foundations, and the theoretical frameworks through which the seven subjects of this study are to be understood. Part Two moves from foundations into the turbulent specificity of what might fairly be called Bangladesh's most compressed jurisprudential moment since the Liberation War of 1971. In the period from August 2024 to April 2026, the country experienced the fall of a government, the formation of an interim administration, a systematic accountability process for crimes committed by the outgoing regime, a constitutional reform project, a general election of unprecedented competitiveness, and the beginning of a new parliamentary cycle. Every one of our seven subjects was positioned, sometimes centrally, sometimes peripherally, sometimes in ways they did not choose, within this cascade of events. Part Two examines how they navigated those positions, what their specific statements and actions reveal about their jurisprudential commitments and their political characters, and what the theoretical frameworks developed in Part One tell us about the meaning of those statements and actions.

The central argument of Part Two can be stated at the outset, though its development will require the full length of what follows. The post-August 2024 period tested, with unusual severity, whether any of our seven subjects possessed the quality that philosophers and legal theorists have called integrity, understood not simply as honesty but as what Bernard Williams described as the coherent integration of a person's deepest commitments into their actions over time. For each subject, the test took a different form. For Barrister Suman, it was the test of whether a lawyer who had positioned himself as a fighter against corruption and impunity would apply those same standards to the political network that had sustained his own career. For Shishir Manir, it was the test of whether a constitutional lawyer committed to judicial independence would maintain the same standards of procedural fairness when representing clients whose political rehabilitation served the interests of his own political moment. For Rumeen Farhana, it was the test of whether someone who had criticized the Awami League's suppression of internal dissent would respond to internal BNP dissent against herself with the same principles she had invoked against her former adversaries. For the others, analogous tests presented themselves. The degree to which each subject passed or failed these tests, and the philosophical significance of those passages and failures, is what Part Two undertakes to examine.

CHAPTER TWELVE: BARRISTER SUMAN IN FULL

The Rise and Fall of a Maverick Parliamentarian

The Political Career That Was Not Supposed to Happen

The political career of Syed Sayedul Haque Suman, born on September 3, 1979, and universally known in Bangladeshi public life as Barrister Suman, is one of the stranger trajectories in recent Bangladeshi political history, and its strangeness carries significant jurisprudential meaning. Suman built his public profile in the years before 2024 through a combination of legal practice at the Supreme Court, social media commentary, public interest litigation, and aggressive criticism of financial crime, money laundering, and the abuse of public assets by the politically connected. He positioned himself explicitly as a fighter against the corruption that pervaded the Bangladeshi state under the Awami League government, and he did so with a rhetorical sharpness and a media fluency that gave him a substantial online following.

This positioning was itself paradoxical, because Suman was simultaneously the legal affairs secretary of the central committee of Bangladesh Awami Jubo League, the youth wing of the very party whose government he was criticizing. This paradox is not unique in Bangladeshi politics, where the organizational structures of the major parties contain internal critics and semi-dissident figures who exploit the party's protection while attacking its excesses. But in Suman's case, the paradox was particularly acute because the target of his sharpest criticisms was the systemic financial criminality of figures who were, by any reasonable organizational analysis, his political associates.

His suspension from Jubo League in August 2021, for allegedly demeaning the Joy Bangla slogan and engaging in anti-organizational activities, represented the point at which the paradox became unsustainable. The suspension was, in the language of organizational politics, a signal that the party had decided to withdraw the protection that had allowed Suman to operate as a semi-independent voice. The immediate trigger was the Joy Bangla slogan incident, but the deeper cause was almost certainly the growing tension between his public positioning as an anti-corruption crusader and the interests of the party infrastructure that sustained the corruption he was criticizing.

Suman subsequently contested the January 2024 general election as an independent candidate in the Habiganj-4 constituency, which covers Chunarughat and Madhabpur Upazilas. The election itself was widely boycotted by the BNP-led opposition and was not a genuine expression of competitive democratic choice in any meaningful sense. Nevertheless, Suman's decision to contest it, against an Awami League incumbent who was a two-term MP and former State Minister for Civil Aviation and Tourism, was politically bold. His victory by nearly 100,000 votes, in a constituency where the incumbent had the full organizational machinery of the Awami League behind him, suggests that Suman had built genuine personal support that transcended party structures.

The Resignation from the International Crimes Tribunal

Before examining the events of late 2024, it is essential to understand the significance of Suman's earlier resignation from the International Crimes Tribunal in February 2022. The ICT, established in 2010, was the judicial mechanism through which the Awami League government prosecuted those alleged to have committed war crimes during the 1971 Liberation War. The Tribunal had significant symbolic importance for the Awami League's political identity and for a substantial section of Bangladeshi public opinion that regarded accountability for 1971 as a

fundamental moral obligation. It also attracted significant international criticism from human rights organizations who documented procedural shortcomings and questioned the standard of fair trial guarantees.

Suman's resignation from a prosecutor's role at the ICT, and his subsequent public commentary about the Tribunal's processes, placed him in an uncomfortable position relative to the Awami League establishment. It suggested either that he had genuine concerns about the Tribunal's procedures that his professional ethics required him to register, or that he was distancing himself from the institution for strategic political reasons. The philosophical question of which motivation was primary is difficult to resolve from available public sources. What is clear is that the resignation added to his public image as a figure willing to challenge institutional authority even when that authority was associated with his own political world.

Jurisprudentially, the ICT raises questions that remain unresolved in Bangladeshi legal discourse. Suman's books and commentary on public interest litigation had established him as someone attentive to procedural fairness and the rights of defendants. But the ICT's mandate was to prosecute alleged perpetrators of some of the most serious crimes in Bangladeshi history: genocide, crimes against humanity, and war crimes committed during the 1971 Liberation War. The tension between the demands of procedural fairness, including the right to an independent and impartial tribunal, the right to adequate time and facilities for preparing a defense, and the right not to be convicted on evidence obtained through improper means, and the demands of justice for victims of mass atrocity, is one of the most profound tensions in international criminal jurisprudence.

Mark Drumbl's influential work "Atrocity, Punishment, and International Law" argues that international criminal law's standard model of individual criminal responsibility, borrowed from domestic criminal law, is ill-adapted to the collective nature of mass atrocity, which involves thousands of perpetrators acting within bureaucratic structures of command. The ICT's proceedings, applying individual criminal responsibility to defendants accused of participating in systematic mass violence, operate within precisely this tension. Suman's engagement with these questions, even if his specific contributions to the academic literature are limited, reflects a wider awareness in the Bangladeshi legal community of the genuine complexity of accountability processes.

The Post-August 2024 Reckoning

The events that followed Sheikh Hasina's flight on August 5, 2024, placed Suman in an extraordinarily uncomfortable position. The interim government that assumed power under Muhammad Yunus began a systematic process of arresting former ministers, MPs, and Awami League-affiliated figures in connection with the killings during the July-August protests. Suman, having been an Awami League-affiliated politician who had contested the fraudulent 2024 election and won a parliamentary seat under conditions that the uprising was explicitly repudiating, was caught in this net.

Rumors circulated in the immediate aftermath of August 5 that Suman had left the country. He denied this, stating in media communications that he was in Bangladesh and in Dhaka, but not

disclosing his location for security reasons. The very fact that a former member of parliament needed to hide his location for security reasons is itself a striking commentary on the state of order and the rule of law in the transitional period. Whatever the justifications offered for the extraordinary circumstances, the reality of a political class in hiding, alternating between those who had actually fled and those who remained in concealment, illustrated the degree to which the post-August political transition was characterized by precisely the kind of extra-institutional dynamics that constitutional law is supposed to prevent.

Suman was arrested on October 21, 2024, at Mirpur in Dhaka, in connection with two murder cases filed at Mirpur Model Police Station relating to killings during the anti-discrimination student movement. He was subsequently shown arrested in additional cases, including an attempted murder case relating to an attack on a named individual during the same period, and another murder case relating to the death of a grocery shop owner amid the mass uprising. On October 22, a Dhaka court placed him on a five-day remand. On October 27, his bail was denied and he was sent to jail.

In the period immediately before his arrest, Suman issued public statements that are worth examining carefully because they reveal the specific psychological and rhetorical posture that a lawyer adopts when transitioning from public accuser to accused party. He said: "I'm in Bangladesh, in Dhaka city. I'll work for the reform of the country if I'm provided with the opportunity. Cases are being filed against some people as part of this reform work, I started such initiatives earlier. I started the filing of such cases." He also said: "I'll deal with it legally."

These statements are fascinating from a jurisprudential perspective because they attempt to collapse the distinction between the legitimate accountability processes that the post-August transition was conducting and the specific allegations against Suman himself. By invoking his prior record of filing cases against others, Suman was implicitly arguing that the legal system's current proceedings against him were of the same reforming character as his own prior legal activism, and that both should therefore be assessed by the same standards of legitimate rule-of-law process. He was also, more subtly, positioning himself as someone who accepted the legitimacy of legal process, as a lawyer should, even when that process was directed against himself.

The deeper philosophical question this raises is about the relationship between process and substance in legal accountability. Ronald Dworkin's concept of "law as integrity" holds that legal decisions must be justifiable not merely as applications of specific rules but as expressions of a coherent set of principles that apply consistently across all members of the community. The question of whether the post-August 2024 accountability proceedings were genuinely consistent applications of legal principles or selective prosecutions of political enemies is one that cannot be resolved purely by examining individual cases. It requires a systemic assessment of who was and was not prosecuted, by what evidence standards, under what procedural protections, and with what institutional oversight.

The January 2025 denial by a Dhaka court of Suman's bail applications in three cases, sending him to jail for the long term, raised questions about the proportionality of pre-trial detention in the Bangladeshi context. Bangladesh's constitution guarantees the right not to be detained

without trial beyond specified periods, and the Code of Criminal Procedure provides detailed rules on bail. But the bail provisions give magistrates and judges substantial discretion, and the exercise of that discretion in politically charged contexts has historically reflected political pressures rather than purely legal considerations. In the Hasina period, bail was frequently denied to opposition politicians as a form of political incapacitation. The question of whether the post-August period was reproducing this pattern with different political targets was one that legal commentators, including several of our seven subjects, engaged with in public discourse.

The May 2025 imposition of a travel ban on Suman and his wife in connection with corruption investigations added an additional layer of legal jeopardy that went beyond the criminal cases relating to the protest killings. The graft allegations, involving the alleged accumulation of wealth through political power, connected directly to the anti-corruption positioning that had been the foundation of Suman's public profile. If those allegations were substantiated, they would represent a fundamental hypocrisy of precisely the kind that demolishes public credibility. If they were not substantiated, they would represent exactly the kind of weaponized legal process that Suman himself had, in other contexts, criticized.

The S. Alam Controversy and Its Legal Dimensions

One of the most specific and instructive episodes in Suman's legal career before 2024 was his engagement with the S. Alam Group affair. The S. Alam Group, a massive Bangladeshi conglomerate associated with Mohammed Saiful Alam, had become a byword for politically connected financial crime. Allegations of massive irregularities in banking, of the use of political connections to obtain loans from state-controlled banks that were never intended to be repaid, and of the accumulation of assets far beyond any legitimate business explanation were extensively documented in investigative journalism and in regulatory proceedings.

Suman filed a petition before the Supreme Court seeking investigation into the S. Alam Group's offshore business dealings, attempting to invoke the court's supervisory jurisdiction to initiate scrutiny that the executive branch had proved unwilling to undertake. His framing of this petition as a public interest matter connected it to the PIL tradition examined in Part One, though its specific focus on financial crime and money laundering gave it a distinctive character. The description of S. Alam's operation as an "Aladdin's Lamp" in media coverage of Suman's filings captured the magical quality of financial transformation that was alleged, in which public bank deposits entered the lamp of political patronage and emerged as private offshore assets.

This legal activism on behalf of financial accountability, whatever its ultimate judicial success or failure, established Suman as one of the more aggressive practitioners of accountability-oriented litigation in the pre-2024 period. It also placed him in a genuinely exposed position, because the Awami League government, to which he remained formally connected through his Jubo League affiliation, had its own complex relationships with the financial interests he was attacking. His survival in this exposed position, for as long as it lasted, testifies both to his political skill and to the ambiguous protections afforded by his visible public profile.

The $500 crore defamation case filed against him by Awami League MP Abdus Sobhan Miah in February 2023, arising from social media statements about the MP, illustrates the other side of

this dynamic. Defamation cases in Bangladesh have historically been deployed as weapons against critics, particularly online critics, in ways that chilled public discourse on matters of genuine public interest. The use of civil litigation in this way is not, technically, covered by the Digital Security Act's criminal provisions, but it achieves similar silencing effects through the cost and anxiety of litigation and the reputational damage of being named as a defendant. Suman's response to this case, which was to continue his public commentary rather than retreat from it, reflects both personal courage and the calculation that his public profile provided a degree of protection against the most extreme consequences.

The Philosophical Reckoning: Integrity, Complicity, and the Limits of Anti-Establishment Positioning

The most searching philosophical question that Suman's career raises is about the sustainability of what might be called the partial anti-establishment position: the position of someone who benefits from the protection and resources of an established political network while using those resources to criticize the network's excesses. This is, in one form or another, a position that many political actors in many contexts have occupied. The question is whether it is intellectually coherent and morally defensible over the long term.

The political philosophy of complicity is relevant here. Christopher Kutz's work "Complicity: Ethics and Law for a Collective Age" examines the conditions under which individuals are morally responsible for the harms produced by collective actions in which they participate. Kutz argues that complicity requires some form of participation in the collective project, even if the individual's specific contribution was not itself harmful. A politician who benefits from a party's organizational machinery, electoral resources, and patronage networks while criticizing specific instances of that network's corruption is, on Kutz's analysis, complicit in the system even if their specific individual actions were not themselves corrupt.

This is a demanding standard, and one that most political actors in most contexts would fail. The question is not simply whether Suman was complicit in the Awami League's broader governance failures, which by Kutz's standard he arguably was, but whether his specific advocacy activities were sufficiently valuable in creating public accountability to justify the complicity that sustained them. This is ultimately a consequentialist question that depends on empirical assessments of what his advocacy actually achieved, assessments that are difficult to make with precision. What can be said is that the cases he filed, the financial crimes he exposed, and the public discourse he stimulated did contribute to the accountability landscape in ways that his simple exclusion from the political-legal system would not have permitted.

The post-August 2024 situation complicated this calculus in ways that Suman himself may not have fully anticipated. The accountability mechanisms that were now being applied to him were, in important structural respects, the same kind of accountability mechanisms that he had advocated and deployed against others. Whether those mechanisms, applied to him, were legitimate depends on the evidence in the specific cases and on the procedural quality of the proceedings. But it is philosophically instructive to observe that a lawyer who had argued for robust accountability processes could not in good conscience resist those processes simply because they were now directed at him. His statement that he would deal with the cases

"legally," accepting the process even while presumably contesting the specific allegations, was the right response in principle, even if the practice of that principle involved considerable personal hardship.

CHAPTER THIRTEEN: MOHAMMAD SHISHIR MANIR

Constitutional Architect and Jurisprudential Provocateur

The Profile of a Practicing Constitutional Lawyer

Mohammad Shishir Manir is the most purely legal of our seven subjects in the sense that his public prominence derives almost entirely from his courtroom practice and his public commentary on legal affairs, rather than from political party membership, electoral ambition, or partisan advocacy in the conventional sense. His description of himself on his personal website captures this orientation with precision: "I am an advocate of the Supreme Court of Bangladesh. I am focusing on criminal, constitutional and administrative laws. Judges, lawyers, law professors and law students are the integral part of the process of ensuring justice in the society. The contents of this website will reflect my perspective of courtroom experiences, law review, judgment review and legal research."

This self-presentation emphasizes the lawyer as a technical professional whose contribution to justice is made through the disciplines of the courtroom and of legal scholarship, rather than through political mobilization or public advocacy in the populist mode. It reflects a jurisprudential tradition in which the lawyer is conceived as a servant of the legal system rather than as a political actor who uses law as a tool. Whether this self-presentation is fully accurate to Manir's actual practice, which has been considerably more politically engaged than the modest website description suggests, is one of the questions this chapter will examine.

Manir's professional focus on criminal, constitutional, and administrative law places him at the intersection of the three most politically sensitive areas of legal practice. Criminal law, as applied in politically charged cases like the Abrar Fahad murder case or the ICT proceedings, is inherently political in the sense that the exercise of prosecutorial and judicial discretion in such cases is always observable and contestable by political actors. Constitutional law is the arena in which the most fundamental questions about the design and limits of political power are adjudicated. Administrative law governs the relationship between citizens and state bureaucracies, including the processes by which government decisions are made and can be challenged. A lawyer who practices across all three areas necessarily engages with the most sensitive interfaces of law and power.

His personal website also reflects a commitment to legal education and public engagement that goes beyond simple advocacy. The emphasis on judgment review and legal research suggests someone who approaches the law intellectually as well as practically, who is interested in understanding why courts decide cases the way they do and what the theoretical justifications for those decisions are. This intellectual orientation distinguishes Manir from those practitioners

who approach law purely instrumentally, as a tool for achieving client objectives, and aligns him with what might be called the reflective practitioner tradition in legal ethics.

The Abrar Fahad Case: The Ethics of Defense

The murder of Abrar Fahad at the Bangladesh University of Engineering and Technology (BUET) on October 6, 2019, was one of the most shocking acts of campus violence in Bangladesh's recent history. Fahad, a student at BUET, was beaten to death by members of Chhatra League, the Awami League's student wing, apparently because he had posted commentary on Facebook expressing views that were interpreted as critical of India and sympathetic to Pakistani political positions. The brutality of the killing, which took hours and was documented in physical evidence including the broken instruments used to beat him, and the involvement of politically connected student organization members as perpetrators, caused widespread horror and condemnation.

The Speedy Trial Tribunal-1 of Dhaka delivered its judgment in the case on December 8, 2021, imposing death sentences on multiple defendants. The case was then referred to the High Court Division for confirmation of the death sentences, as required by Bangladeshi law. High Court hearings began on November 28, 2024, before a bench led by Justice AKM Asaduzzaman. Both the state and the convicted defendants had legal representation at the High Court level, and Manir appeared as defense counsel for several of the convicted.

His withdrawal from the case in February 2025, announced on Facebook with the statement that he would not represent any party in the appeal court regardless of the verdict, was precipitated by public backlash to his representation of the convicted defendants. The backlash was intense and emotionally charged, drawing on the profound public grief and anger generated by the killing and on resentment that politically connected perpetrators were receiving vigorous legal representation. Manir's response to the backlash, in which he said he deeply respected the people's emotions and sentiments, is a philosophically significant formulation that requires careful analysis.

The philosophical tradition of the defense lawyer's ethics is long and distinguished. In England, the cab rank rule, as discussed in Part One, establishes the principle that barristers must accept any client seeking their services for whom the fee is appropriate, regardless of the nature of the case or personal distaste for the client or the cause. The justification is systemic: the adversarial system as a whole produces just outcomes only when both sides are adequately represented, and allowing lawyers to refuse representation on grounds of personal distaste would undermine this systemic justice by denying representation to the most unpopular defendants, who are often precisely those most in need of vigorous defense.

In the American tradition, this principle has been defended eloquently by figures including Monroe Freedman and Alan Dershowitz. Dershowitz's "The Best Defense" and "Taking the Stand" articulate the view that the defense lawyer's role in the adversarial system is not merely permissible but positively necessary for justice, and that the defense lawyer who takes on unpopular cases serves a crucial systemic function even when, and perhaps especially when, the specific client is despicable. Comparable arguments have been made by English barristers who

have represented convicted terrorists and war criminals, and by Bangladeshi lawyers who have represented defendants in politically charged cases.

Against this tradition stands a growing body of scholarship that argues for a more contextual and morally sensitive approach to the ethics of representation. David Luban's "Lawyers and Justice" argues that lawyers have personal moral responsibilities that cannot be entirely discharged by the claim that they are serving the systemic justice function. When the lawyer's representation of a client actively facilitates serious injustice, or when the lawyer uses skills and resources not merely to present a legitimate defense but to obstruct legitimate accountability processes, the systemic defense of adversarial representation becomes less persuasive.

The specific circumstances of Manir's withdrawal from the Abrar Fahad case are important to assess against this theoretical background. The High Court proceedings were appellate proceedings, reviewing the already-delivered death sentence judgments. The state was represented, the victims' interests were articulated, and the court was reviewing a record that had already been extensively litigated at trial. Vigorous defense representation at this stage of proceedings is not only permissible but, under the law of Bangladesh as under most legal systems, a requirement. A death sentence confirmed without adequate appellate review is a greater judicial failure than a death sentence confirmed after vigorous appeal.

Manir's withdrawal, if motivated primarily by sensitivity to public emotion, therefore raises a troubling question about the independence of the bar from popular pressure. If lawyers withdraw from representation of unpopular defendants when public backlash becomes intense, the principle of equal legal representation is undermined in precisely the cases where it matters most. His formulation that he "deeply respected the people's emotions and sentiments" is, from this perspective, an appropriately empathetic acknowledgment of public feeling that nonetheless does not constitute an adequate legal justification for withdrawal.

However, the political context of February 2025, in which Manir was preparing for a parliamentary candidacy with Jamaat-e-Islami's nomination for the Sunamganj-2 constituency (confirmed by his appearance in search results as "Jamaat-e-Islami nominated parliamentary candidate"), provides an alternative explanation. A candidate seeking election under a conservative Islamist party's banner who is simultaneously defending Chhatra League members convicted of a politically motivated murder of a student with Islamist sympathies faces an obvious conflict of interest that the cab rank rule, which speaks to individual professional obligation, does not fully address. The conflict between his professional obligation as defense counsel and his political interest as a candidate may have been the more operative factor in his withdrawal, even if it was publicly articulated in the language of emotional sensitivity.

This possibility, if accurate, illustrates one of the deepest tensions in the careers of all our subjects who combine legal practice with political ambition. The lawyer's professional ethics are designed for someone whose primary loyalty is to the law, the client, and the court. The politician's practical ethics are designed for someone whose primary loyalty is to constituents, to a party platform, and to electoral success. When these roles are combined, as they necessarily are in the careers of lawyer-politicians, the tensions between their respective ethical demands can

produce precisely the kind of strategic instrumentalization of professional ethics that both legal ethics scholars and political philosophers find troubling.

The Jamaat-e-Islami Representation and Its Constitutional Dimensions

Manir's most consequential legal work in the post-August 2024 period was his representation of Jamaat-e-Islami in the Supreme Court proceedings that culminated in the restoration of the party's electoral registration on June 1, 2025. The registration of Jamaat-e-Islami as a political party had been revoked in 2013 following a High Court ruling that the party's charter, which prioritized divine sovereignty over democratic principles, was incompatible with the secular democratic framework of the Bangladeshi constitution. This ruling had been enormously controversial from the beginning, generating intense debate about the relationship between constitutional democracy and religious politics.

The constitutional questions at stake in the Jamaat registration case are among the most profound in Bangladeshi jurisprudence. The 1972 constitution established secularism as one of the four founding principles of the state, though this was later modified by General Ziaur Rahman, who replaced "secularism" with "absolute trust and faith in the Almighty Allah" in the constitution's preamble. The current text of the constitution contains both secular and religious elements that sit in some tension with each other. The question of whether a party whose charter explicitly prioritizes divine sovereignty over democratic process can participate in the democratic system established by the constitution is a genuine constitutional puzzle that admits of multiple reasonable answers.

One reasonable answer, which informed the 2013 High Court ruling, is that parties committed to replacing democratic process with theocratic governance cannot legitimately use democratic procedures to advance that goal. This argument has parallels in what political philosophers call "militant democracy" (streitbare Demokratie in the German constitutional tradition), the principle that a democracy can legitimately exclude from political competition parties that are explicitly committed to the overthrow of democratic institutions. The German Constitutional Court's jurisprudence on party bans under Article 21(2) of the Basic Law, which permits the banning of parties "whose aims or the behavior of their adherents seek to undermine or abolish the free democratic basic order," is the most developed judicial expression of this principle.

The competing answer, which Manir argued and which the Supreme Court's Appellate Division ultimately accepted in its June 2025 ruling, is that the right to form and participate in political parties is a fundamental right under the Bangladeshi constitution, that restrictions on this right must be proportionate and justified, and that a party's mere expression of religious values in its charter does not amount to a threat to the democratic order sufficient to justify deregistration. On this view, the 2013 ruling was politically motivated rather than legally principled, and its reversal by the post-August courts was a restoration of constitutional rights rather than a grant of illegitimate political advantage.

Manir's statement outside the court following the June 1, 2025 ruling, that the verdict acknowledged "multiparty democracy and inclusive election" and that the previous High Court order was "politically motivated," is simultaneously a legal argument and a political declaration.

As a legal argument, it invokes the principle that courts should decide cases on their merits rather than on political calculations. As a political declaration, it frames the ruling as a victory for his client and for the political forces his client represents, in a context where the characterization of legal proceedings as politically motivated or legally principled is itself a deeply political act.

The jurisprudential complexity of the Jamaat case cannot be overstated. The party had, during the 1971 Liberation War, sided with the Pakistani military against the Bangladeshi independence movement and had been associated with atrocities against the Bengali civilian population including systematic rape, murder, and the targeting of intellectuals. Several of its senior leaders had been convicted by the ICT for war crimes and crimes against humanity, though the post-August courts overturned some of these convictions, including that of ATM Azharul Islam whose acquittal was announced on May 27, 2025, days before the registration restoration. The party's reintegration into the political system therefore raised not merely abstract constitutional questions about party rights but deeply concrete questions about the relationship between transitional justice and political inclusion.

Manir's framing of the registration restoration as a victory for justice over "politically motivated injustice" elided these concrete questions in ways that are analytically unsatisfying even if politically effective. The victims of 1971 atrocities, their descendants, and those who viewed the ICT prosecutions as a legitimate if imperfect attempt at accountability had legitimate grievances that a sophisticated constitutional lawyer should acknowledge rather than dismiss. Intellectual honesty in constitutional advocacy requires engagement with the hardest arguments against one's position, not merely deployment of the strongest arguments in its favor.

The Judicial Independence Campaign: Article 116 and the Subordinate Judiciary

The most intellectually coherent and constitutionally principled of Manir's post-August 2024 engagements was his work on the restoration of the Supreme Court's control over the subordinate judiciary under Article 116 of the constitution. This work, which culminated in the September 2, 2025 High Court ruling directing the establishment of a separate Supreme Court secretariat and restoring the Supreme Court's authority over the transfer, discipline, and promotion of judicial officers, represents a genuine contribution to the institutional foundations of judicial independence in Bangladesh.

The constitutional history of Article 116 is a microcosm of Bangladesh's broader constitutional dysfunction. The original 1972 constitution, reflecting the Westminster-derived commitment to judicial independence, vested control of the subordinate judiciary in the Supreme Court. This provision was amended by subsequent governments, in particular during the Ershad era, to transfer control of subordinate court judges to the President, who in practice exercised this authority through the executive branch. The consequence was that judges of the subordinate courts were effectively dependent on executive patronage for their career prospects, including their postings, promotions, and disciplinary treatment. This structural dependency was widely identified as a major factor in the subordinate courts' failure to maintain independence from executive pressure in politically sensitive cases.

The writ petition of August 25, 2024, filed by seven Supreme Court lawyers seeking to transfer authority over magistrates from the President to the Supreme Court, invoked the 1972 constitution's original provisions as the legal baseline from which the subsequent amendments had impermissibly departed. Manir's representation of the petition in the High Court, and his statement following the ruling that "The Ministry of Law will have no control over the transfer and discipline of judges in the name of the appropriate authority from now on. They will be able to deliver judgments without fear," captured the constitutional significance of the ruling with appropriate precision.

The institutional theory underlying this constitutional argument draws on the fundamental principle of separation of powers, which requires that the judicial branch be genuinely independent from the executive and legislative branches. Montesquieu's classic statement of the separation of powers principle, in "The Spirit of the Laws," identified the concentration of judicial power in the executive as one of the most serious threats to liberty. Alexander Hamilton's defense of judicial independence in Federalist No. 78 argued that "the complete independence of the courts of justice is peculiarly essential in a limited constitution," precisely because courts must have the capacity to enforce constitutional limits against the will of the political majority.

The post-August 2024 moment provided an unusual opportunity to restore constitutional arrangements that had been systematically undermined over decades. The question of whether the new government's commitment to judicial independence would survive the natural temptation of any government to maintain influence over the courts became relevant almost immediately. The subsequent controversy, in which the newly elected parliament repealed the ordinance that had established the independent Supreme Court secretariat, and in which Manir responded by calling the repeal a "dark day" and a "black chapter" in the history of the country's judiciary, urging that all judges and lawyers should wear black badges in protest, illustrates this tension with painful clarity.

The Parliament's Repeal of the Judicial Secretariat Ordinance: A Dark Day Indeed

The chronology of the judicial secretariat episode is worth tracing carefully because it illustrates the cycle through which institutional reform in Bangladesh repeatedly passes: reform achieved through extraordinary political moments, followed by erosion through ordinary political processes. On September 2, 2025, the High Court directed the establishment of an independent Supreme Court secretariat and restored the Supreme Court's control over the subordinate judiciary. An ordinance was passed in November 2025 implementing this directive. The secretariat was officially inaugurated on December 11, 2025, with partial operations underway. Then, in April 2026, the newly elected parliament, dominated by the BNP, repealed the ordinance.

The government's justification for the repeal was that the High Court ruling would only take effect after the completion of the appeal process, implying that the ordinance was premature. Manir rejected this explanation as a rationalization. His statement that the repeal represented "a negative sign and black symptom" and that it was "extremely rare" for the independence of a branch to be taken away in this manner reflects genuine constitutional alarm that cannot be easily

dismissed as partisan complaint. The independence of the judiciary is a structural requirement of constitutional democracy that is not partisan in the conventional sense, even if its protection or erosion serves different political interests at different moments.

The deeper question the repeal raises is whether the BNP government, having benefited in opposition from an independent judiciary that was willing to challenge executive authority, was prepared to accept the same constraints on its own authority in power. This is precisely the question that constitutional scholars studying democratic transition have identified as critical: whether the winning party treats constitutional constraints as applicable universally or as weapons to be deployed against opponents and obstacles to be removed when inconvenient. The repeal of the judicial secretariat ordinance so shortly after the new parliament convened does not, on its face, suggest a government deeply committed to the latter interpretation.

Manir's response, calling for judicial and legal community protest through the symbolic wearing of black badges, reflects an understanding that judicial independence cannot be defended by courts alone but requires the active support of the legal profession as an institution. The independence of the bar from government pressure is a prerequisite for the bar's ability to defend judicial independence. When the two institutions, the courts and the bar, reinforce each other's independence, constitutional democracy is more secure. When either is compromised, the other is vulnerable. Manir's call for profession-wide solidarity in defense of judicial independence is therefore not merely symbolic politics but a genuine institutional strategy.

The political position Manir was in, as a Jamaat-e-Islami-nominated candidate who had contested the 2026 elections under that party's banner, complicated his ability to maintain the posture of non-partisan constitutional defender. Jamaat was a member of the broader anti-Awami League coalition that had supported the BNP's ascent to power. Criticizing the BNP government so early and so sharply, even on a matter of principle, required a degree of political independence that his recent partisan commitments might be thought to compromise. The fact that he made the criticism nonetheless, and in the vigorous language of black badges and dark days, suggests that his commitment to judicial independence was, on this occasion at least, genuine enough to survive the social pressure to maintain coalition solidarity.

The Religious Sentiment Controversy and the Limits of Interfaith Discourse

The complaint filed against Manir in December 2025, arising from a video in which he apparently said that "Roza [Islamic fasting] and Puja [Hindu religious worship] are two sides of the same coin," illustrates yet another dimension of the complex environment in which legally trained public figures operate in Bangladesh. The complaint alleged that this comparison hurt the religious sentiments of Muslims and created the potential for public unrest.

The substantive philosophical point that Manir appears to have been making is one with a distinguished lineage in comparative religion and in the interfaith dialogue tradition. The idea that fasting and intensive ritual observance serve analogous spiritual functions across different religious traditions is not a controversial claim in academic comparative religion. From a phenomenological perspective, the disciplinary practices of Ramadan fasting in Islam and Durga Puja observances in Hinduism do share structural features: both involve temporal disruption of

ordinary life in the service of spiritual reorientation, both connect the individual to a community of shared practice, and both express a recognition of the transcendent that goes beyond ordinary materialist categories.

That this essentially benign interfaith observation could generate a legal complaint illustrates the degree to which religious sensitivity has been weaponized in Bangladeshi public life. The prohibition of speech that "hurts religious feelings," which was embedded in the Digital Security Act and continues in various forms in the Cyber Security Act, has been used consistently not to protect religious communities from genuine hate speech but to silence commentary that religious or political actors find inconvenient. The complaint against Manir, whether ultimately pursued or dismissed, is a textbook example of this weaponization.

From a jurisprudential perspective, the relevant international standard is the one articulated by the Human Rights Committee in its General Comment 34 on freedom of expression, which specifically states that prohibitions of blasphemy or "insulting religion" are incompatible with the ICCPR unless they are directed at "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." A comparative observation about religious practices, even if imprecise or contestable, clearly does not meet this threshold. The complaint against Manir should therefore, on any application of international freedom of expression standards, be dismissed.

The fact that it was filed at all, and that it was apparently entertained by the court sufficiently to have the plaintiff's statement recorded, reflects the ongoing gap between Bangladesh's international human rights treaty commitments and the practice of its legal institutions. This gap is one of the most important structural features of the Bangladeshi legal landscape, and it is one on which Manir, as a constitutional and administrative law practitioner, has unique professional standing to comment. His willingness to continue making public statements, including ones that may be characterized as provocative on religious grounds, after the complaint was filed reflects a commitment to freedom of expression that is consistent with his constitutional advocacy work, even if the specific statement at issue was perhaps insufficiently careful in its phrasing.

The Caretaker Government Case and Constitutional Continuity

Manir's involvement in the caretaker government proceedings before the Supreme Court further illustrates his role as a practitioner at the center of Bangladesh's most consequential constitutional controversies. The Thirteenth Amendment, which had introduced the caretaker system in 1996, had been struck down by the Appellate Division in its 2011 ruling. This ruling was itself politically controversial, widely seen as a judicial accommodation to the Awami League government's desire to eliminate the caretaker system that would have required it to transfer power during elections. The post-August courts revisited this question, with the Appellate Division overturning the 2011 ruling in November 2025 and reinstating the Thirteenth Amendment as valid constitutional law.

Manir's representation of review petitions in this process, including his facilitation of the scheduling of hearings and his communication with the Attorney General about timing, placed him in the procedural machinery of one of the most significant constitutional developments of

the transitional period. The caretaker system case is not merely a technical constitutional question. It is a question about the fundamental conditions under which electoral competition can be free and fair in a country with Bangladesh's history of executive manipulation of electoral processes.

The constitutional theory underlying the caretaker system connects to what comparative constitutionalists have called the "electoral integrity" challenge. Pippa Norris's extensive comparative research on electoral integrity, her "Why Electoral Integrity Matters" and related works, documents the conditions under which elections produce genuinely competitive outcomes and the conditions under which they are systematically distorted by incumbent advantage. The Bangladeshi experience, in which elections conducted under incumbent governments consistently produced results that overwhelmingly favored the incumbents, is a case study in the failure of electoral integrity, and the caretaker system was an institutional response to this failure.

The Appellate Division's November 2025 ruling restoring the caretaker system, if implemented in future elections, would represent a significant structural reform of the electoral process. Its implementation, however, faces obvious challenges from any government that benefits from electoral incumbency, which in the normal course would include the newly elected BNP government. Whether the new government would implement the restored caretaker system for the next elections, or whether political interest would prevail over constitutional obligation as it had for previous governments, was among the most important unanswered constitutional questions of the period covered by this textbook.

CHAPTER FOURTEEN: THE ACCOUNTABILITY DEBATES

Transitional Justice Theory and the Bangladesh Experience

The General Framework

The post-August 2024 period in Bangladesh constitutes one of the most significant transitional justice experiments in South Asian history. Transitional justice, as a field of practice and scholarship, concerns the mechanisms through which societies address legacies of systematic human rights violations committed by previous regimes. These mechanisms include criminal prosecutions, truth commissions, reparations programs, institutional reform, memorialization, and various hybrid approaches combining elements of these. The theoretical literature on transitional justice has expanded dramatically since the 1990s, driven by the experience of transitions in Latin America, Eastern Europe, South Africa, and more recently in the Middle East and Africa.

Bangladesh's situation has distinctive features that make direct application of comparative models complex. Unlike South Africa's truth and reconciliation process, which explicitly traded criminal accountability for full disclosure, Bangladesh's post-August process has emphasized prosecution rather than truth commission mechanisms. Unlike Argentina's Nunca Mas process, which prosecuted junta members after a full democratic transition, Bangladesh's accountability

processes began under an interim government whose own democratic legitimacy was contested. And unlike the International Criminal Tribunals for the former Yugoslavia and Rwanda, which were established by the UN Security Council and operated under international oversight, Bangladesh's International Crimes Tribunal is a domestic institution that has attracted sustained criticism from international human rights organizations.

Our seven subjects all have positions on these accountability processes, and those positions illuminate their jurisprudential commitments in ways that theoretical analysis alone could not. The positions range from strong support for comprehensive prosecution (Majumdar's international advocacy, before his own legal complications, and Farhana's opposition-era statements about accountability) through procedural concerns about fair trial standards (Manir's professional attention to due process across multiple cases) to what might be characterized as strategic ambiguity (some of the other subjects who have been more circumspect in their public statements about the accountability processes).

The ICT Proceedings Against Sheikh Hasina and Their Jurisprudential Complexity

The formal indictment of Sheikh Hasina on five counts of crimes against humanity on July 10, 2025, following the formal filing of charges on June 1, 2025, and the opening statements of August 3, 2025, represents a moment without precedent in Bangladeshi legal history. A former prime minister, under whose government approximately 1,400 people were killed during the July-August 2024 protests, was being prosecuted in a domestic criminal tribunal for crimes against humanity. The witnesses, including protest survivors who testified about being shot in the face and denied medical treatment, were providing evidence of systematic and organized violence against a civilian population.

The jurisprudential questions raised by these proceedings are multiple and interconnected. The first concerns the proper definition of crimes against humanity as applied to the facts. Under Article 7 of the Rome Statute, crimes against humanity require a widespread or systematic attack against a civilian population, committed as part of a state or organizational policy. The coordinated deployment of security forces, including what witnesses described as the use of helicopters and drones to fire on civilian crowds, clearly meets the "systematic" requirement if the underlying factual allegations are proved. The ICT's acceptance of the prosecution's framing of the case as involving "coordinated and systematic violence" against unarmed civilians reflects the doctrinal framework of international criminal law.

The second question concerns command responsibility, the doctrine under which military and political leaders are criminally responsible for crimes committed by subordinates if they knew or should have known of those crimes and failed to take measures to prevent or punish them. The prosecution of Sheikh Hasina as "principal accused" appears to rely heavily on command responsibility doctrine, connecting her to the specific acts of killing through the chain of command of the security forces deployed. One witness's testimony that he heard Hasina ordering hospital authorities "no release, no treatment" for injured protesters, if believed, would potentially constitute direct involvement rather than merely command responsibility.

The third question concerns the standard of proof. Criminal proceedings, including international criminal proceedings, require proof beyond a reasonable doubt. The evidence of systematic violence is substantial and corroborated by multiple independent sources including UN investigations. But proof of specific individual criminal responsibility for specific acts requires more than proof of systematic violence; it requires connection between the specific individual and the specific acts through evidence of order, authorization, knowledge, or culpable inaction.

The fourth question, and the most uncomfortable for those who support the accountability process, concerns the standard of fair trial for proceedings conducted in absentia. International law permits trials in absentia in limited circumstances, but only where the accused has been properly notified and has voluntarily absented herself. Hasina's situation, in which she fled Bangladesh after her government fell, remained in India which declined to extradite her, and communicated through lawyers from afar, presents complexities about the voluntariness of her absence that the ICT's proceedings in absentia must address.

The Contempt Conviction and the "Licence to Kill" Recording

The contempt conviction of Hasina on July 2, 2025, arising from an audio recording in which she allegedly stated that she had "a licence to kill" because she had faced 227 legal cases in the past, is one of the most extraordinary episodes in the Bangladeshi proceedings. The ICT found this statement to be "a direct affront to the integrity of the court" and sentenced her to six months' imprisonment in absentia.

The jurisprudential analysis of this conviction requires care because the underlying legal doctrine of contempt of court is one of the most contested areas of procedural law. Contempt of court, in its traditional common law formulation, includes both civil contempt (failure to comply with a court order) and criminal contempt (conduct that scandalizes or prejudges ongoing proceedings or that obstructs the administration of justice). The characterization of Hasina's alleged statement as a "direct affront to the integrity of the court" appears to invoke the criminal contempt doctrine of "scandalizing the court," which has a long and troubled history.

The "scandalizing the court" doctrine has been criticized in England, Canada, and other common law jurisdictions as an excessively broad protection for judicial institutions against legitimate public criticism. The Privy Council, in McLeod v. St. Aubyn [1899], described the doctrine as requiring "real interference with the course of justice" rather than "mere criticism of the judge." Subsequent English and Commonwealth decisions have consistently held that the doctrine should be applied narrowly, because "justice is not a cloistered virtue" and public commentary about court proceedings, even sharply critical commentary, serves the public interest in scrutiny of the administration of justice.

Whether Hasina's alleged "licence to kill" statement constitutes the kind of interference with the course of justice that the contempt doctrine legitimately targets, or whether it is more in the nature of self-justificatory political commentary by a person under prosecution, is a question on which reasonable lawyers can disagree. What is clear is that the statement as described, if accurately reported, represents an extraordinary claim about the relationship between political

power and legal accountability that reflects precisely the authoritarian mindset that the uprising against Hasina's government was protesting.

The conviction and six-month sentence in absentia, while legally defensible under the ICT's governing statute, adds a rhetorical complexity to the proceedings that more cautious judicial management might have avoided. The trial of a former head of government on crimes against humanity is sufficiently momentous to stand on its own without the additional layer of contempt proceedings that can divert attention from the substantive allegations and create perceptions of personal animosity between the court and the accused.

The Positions of Our Seven Subjects on Accountability

The accountability debates that the ICT proceedings generated throughout 2024 and 2025 drew responses from several of our seven subjects that are worth examining for what they reveal about each figure's underlying jurisprudential commitments.

Rumeen Farhana's positions on the accountability process evolved in ways that reflect both her genuine principles and the complex political dynamics of her situation. During the Hasina years, Farhana had been one of the most vocal opposition voices demanding accountability for Awami League abuses, including its electoral manipulation, its suppression of dissent, and its use of the security apparatus against political opponents. The July-August 2024 killings, which she was publicly documenting from the very early stages, were consistent with her long-standing narrative about the Awami League government's fundamental lawlessness.

Her BNP affiliation, and the BNP's institutional interest in a comprehensive accountability process against the Awami League, meant that supporting the ICT proceedings aligned both her principles and her party's interests. But the more complex question was whether she was willing to apply the same accountability standards to actors within her own political coalition. Her observation in her 2026 parliamentary speech about the declining role of women in decision-making after the uprising was a form of accountability critique directed at the new political order, though an indirect one. Her more direct criticisms of the BNP government's appointments, including her pointed commentary about the Bangladesh Bank Governor being a BNP election committee member rather than a qualified economist, represented a more significant form of institutional accountability advocacy that her party expulsion had freed her to express.

Fuad's institutional approach to the accountability question has been characteristically systemic rather than case-specific. His framework for understanding the post-August period emphasizes institutional collapse and the need for structural reconstruction, which logically implies support for accountability processes as part of that reconstruction. At the same time, his attention to the conditions of institutional legitimacy, including the requirement that accountability processes themselves operate under rule of law standards, suggests an implicit procedural concern that may not always be visible in his public statements.

Manir's professional engagement with specific cases, including his work on the caretaker government review, his representation of Jamaat-e-Islami, and his advocacy for judicial independence, positions him as someone whose accountability jurisprudence is primarily

procedural rather than substantive. He appears to be more interested in ensuring that proceedings are conducted according to proper legal standards than in advocating for particular accountability outcomes. This procedural orientation is, in one sense, the appropriate stance for a practicing lawyer rather than a political advocate. In another sense, it can shade into a form of process-worship that treats procedural compliance as sufficient regardless of substantive justice outcomes.

Majumdar's situation is the most complicated of all on the accountability question. His academic work on international criminal law gives him genuine expertise in the theoretical frameworks that the ICT proceedings invoke. His political association with the Awami League tradition, and the murder case naming him as an accused in proceedings related to the 2024 killings, place him in the extraordinary position of someone who has written extensively about the conditions under which criminal accountability for mass atrocity is both legitimate and necessary, while simultaneously being a subject of accountability proceedings in a related context.

This situation is not necessarily contradictory. Majumdar's scholarly arguments about the legitimacy of accountability proceedings, if genuinely held as principles rather than deployed as political tools, would require him to accept the legitimacy of proceedings against himself as much as proceedings against others. His statement that he respected the law and would deal with cases legally, if accurately characterizing his actual approach to the proceedings against him, reflects the intellectual consistency that his scholarly work would require.

CHAPTER FIFTEEN: INTERNAL CONFLICTS IN DEPTH

Party Structures, Loyalty, and the Anatomy of Political Betrayal

The BNP's Internal Architecture and Its Contradictions

The Bangladesh Nationalist Party is, on any honest assessment, one of the most internally contradictory of the world's major political organizations. Founded by Ziaur Rahman on a platform of Bangladeshi nationalism as distinct from Bengali nationalism, with an explicitly religious character achieved through constitutional amendment, organized around the towering personalities of its two alternating dynastic heads (Khaleda Zia and Tarique Rahman), sustained through decades of opposition by the martyrology of political persecution, and now confronted with the responsibilities of actual power: the BNP contains within itself tensions that its long years in opposition were able to defer but cannot eliminate.

The contradictions are visible in the trajectories of several of our seven subjects. Rumeen Farhana's expulsion illuminates the tension between the party's self-image as a democratic alternative to Awami League authoritarianism and its actual internal governance practices. Bobby Hajjaj's journey from independent reform politician to BNP-aligned ministerial candidate illuminates the tension between the party's rhetoric of institutional reform and its actual operational logic of patronage and alliance management. Andaleeve Rahman's positioning as a

coalition partner rather than a BNP member illuminates the tension between the party's claim to represent a broad national consensus and its actual organizational exclusivity.

The sociological analysis of political party organization is relevant here. Robert Michels's famous "iron law of oligarchy," developed in his 1911 work "Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy," argues that all political organizations, regardless of their initial democratic aspirations, tend toward oligarchical control by a small leadership group. The mechanisms Michels identified, the organizational complexity that requires specialized leadership, the information asymmetries between leaders and rank-and-file members, and the tendency of leaders to use organizational resources to perpetuate their positions, are all visible in the BNP's internal dynamics.

The BNP's response to Farhana's independent candidacy, immediate expulsion without apparent internal deliberation about whether the allocation of her constituency to an alliance partner had been fair or whether some accommodation might be possible, reflects the oligarchical tendency Michels identified. The decision was made at the top of the organizational hierarchy, communicated as a fait accompli through a statement by the Senior Joint Secretary General, and presented as the application of a rule (conduct contrary to party discipline) that admitted of no exceptions. The substantive question of whether Farhana had been treated fairly in the constituency allocation, a question that many party members and observers found entirely legitimate, was not publicly engaged.

This organizational pattern reflects a deeper political culture in Bangladesh in which party loyalty is conceived almost exclusively as obligation to the leadership hierarchy rather than as commitment to shared principles or to the interests of party members broadly conceived. The BNP's self-description as a democratic party fighting for democratic rights sits uncomfortably with internal governance practices that have more in common with the hierarchical structures it criticizes in its opponents than with the democratic ideals it espouses in its public communications.

Farhana's Post-Expulsion Positioning: Independence as a Political Resource

Farhana's victory in the 2026 elections as an independent candidate by 38,000 votes, using the duck as her electoral symbol in a context made famous by the controversy about Government Adviser Asif Mahmud's duck meat dining habits, is an episode that rewards careful analysis for what it reveals about the relationship between political institutions and individual political capital in Bangladesh.

The "duck" symbol, adopted by Farhana for her independent campaign, was both a practical necessity, since independent candidates must choose from approved electoral symbols, and a piece of political theater that displayed both wit and situational awareness. The duck's association with Adviser Asif Mahmud's much-mocked dining preferences gave the symbol an additional layer of meaning that connected Farhana to the broader critique of the post-uprising political class's rapid acclimatization to privilege, a critique that resonated with voters across political lines. Whether the association was consciously intended as political commentary or simply a happy accident that Farhana exploited with characteristic sharpness, the effect was to

give her campaign a memorable visual identity that distinguished it from the conventional political symbolism of established parties.

Her victory margin of 38,000 votes in Brahmanbaria-2 represents a significant personal achievement that demonstrates the degree to which she had built genuine constituency relationships independent of the BNP's organizational machinery. This is important analytically because it refutes any argument that her political success was purely a function of party affiliation or organizational support. She had done the ground-level work over a period of nearly a decade that built personal loyalty among voters who were willing to support her against both the BNP and its alliance partners.

The philosophical question her victory raises is about the relationship between organizational politics and individual political agency. Max Weber's distinction between "politics as a vocation" and politics as a career, in his famous 1919 lecture, is relevant here. Weber argued that genuine political vocation requires the combination of passion (commitment to a cause), responsibility (consequentialist attention to the effects of one's actions), and judgment (the ability to maintain both passion and responsibility in balance). Politicians who subordinate cause to organizational loyalty, accepting party discipline even when it contradicts their best judgment, are, on Weber's analysis, practicing politics as career rather than vocation.

Farhana's decision to contest independently, accepting the enormous organizational and financial disadvantages that independence implied, and her subsequent parliamentary career as an independent MP willing to criticize the governing BNP from within the legislature, suggests a degree of political vocation in Weber's sense that distinguishes her from many of her contemporaries. Whether this vocation will produce more effective policy outcomes than the party discipline she rejected is a question that future observers will be better positioned to answer than we are at this point of our analysis.

The NCP-BNP Rivalry and the Moral Economy of the Uprising

The tensions between the National Citizens' Party, formed by student leaders of the 2024 uprising, and the BNP, which sought to claim the moral authority of that uprising while representing an established political tradition that predated it, created a distinctive political dynamic that affected the careers of several of our subjects. The scuffle at the Election Commission headquarters involving Farhana's supporters and NCP members, and Hasnat Abdullah's characterization of Farhana as "BNP's Awami League affairs secretary," are manifestations of this broader rivalry.

Hasnat Abdullah's remark about Farhana reveals the rhetorical strategy that the NCP deployed against established political figures who sought to associate themselves with the uprising's moral authority. By implying that Farhana was secretly working for the Awami League, the remark simultaneously attacked her credibility, undermined the BNP's claim to the uprising's legacy, and asserted the NCP's exclusive claim to represent the uprising's transformative aspirations. This is a sophisticated piece of political communication that operates on multiple levels, even if its specific claim is false and its rhetorical mode is destructive rather than constructive.

The "moral economy" concept, borrowed from E.P. Thompson's historical work on bread riots and popular protest, is useful for understanding the political dynamics of the post-uprising period. Thompson argued that popular protest in early modern England was governed by a moral economy, a set of shared normative expectations about just prices, obligations, and rights, and that when these expectations were violated, protest was the legitimate response. The July-August 2024 uprising can be understood as an expression of Bangladesh's political moral economy, in which widely shared normative expectations about minimally acceptable governance (including honest elections, restraint in using lethal force against protesters, and basic institutional accountability) had been so comprehensively violated that popular uprising was the legitimate response.

The post-uprising political competition was substantially organized around competing claims to the uprising's moral economy. The NCP claimed it as a revolutionary transformation requiring entirely new political actors and institutional designs. The BNP claimed it as a democratic restoration requiring the reinstatement of the party that had been most consistently persecuted by the outgoing regime. The AB Party claimed it as a structural reform moment requiring the kind of institutional redesign that neither of the established parties had advocated for during their time in power. Each of these claims contains genuine elements, and each is also self-serving. The political process that resulted from the February 2026 elections was, in essence, a referendum on which of these competing claims had the most popular resonance, and the BNP's overwhelming victory suggested that the restoration narrative was more compelling, at least in the short run, than either the revolutionary or the reform narratives.

Bobby Hajjaj's Ministerial Experience: Reform in Office

Hajjaj's appointment as State Minister of Primary and Mass Education following the BNP's 2026 election victory provides the first test of whether his reform rhetoric would translate into governing practice. The Ministry of Primary and Mass Education is responsible for one of the most significant public functions in Bangladesh: the education of approximately 20 million primary school students across tens of thousands of government primary schools. The quality of primary education in Bangladesh has been a persistent concern, with issues including inadequate teacher training, high dropout rates especially among girls from poor families, infrastructure deficits, and curricular content that has been criticized both for excessive religious emphasis in some quarters and for insufficient religious sensitivity in others.

Hajjaj's background in political science, business strategy, and his self-described citizen empowerment work through ShopnerDesh gives him a potentially distinctive approach to educational reform. His experience with grassroots mobilization and his commitment to community engagement, if translated into ministerial practice, could produce educational initiatives that are better grounded in local community needs than the top-down reform programs that have characterized Bangladesh's educational administration. His MBA training and business strategy orientation could be valuable for the administrative reform of a ministry that has historically been characterized by bureaucratic inefficiency and patronage-driven personnel management.

At the same time, the structural challenges facing a reform-oriented minister in Bangladesh's educational bureaucracy are formidable. The educational administration is vast, extending through district, upazila, and union levels to the individual school, and it is deeply embedded in patronage networks that connect local political actors, school management committees, and administrative officials in ways that are resistant to change from above. A minister who wants to change not just individual policies but the institutional culture of educational administration faces resistance from every level of the system, and that resistance is typically organized through the political networks of the governing party itself.

The first test of Hajjaj's ministerial effectiveness will be whether he can identify reform priorities that are politically feasible within his party's organizational constraints, technically sound in terms of their educational theory, and administratively implementable given the capacity of the ministry's staff. This is a demanding combination of requirements, and there is no reason to expect that a minister with Hajjaj's background will find them easier to meet than any of his predecessors, however distinguished his reform credentials in opposition.

Andaleeve Rahman's Parliamentary Position

Andaleeve Rahman's election from Dhaka-17 and his role in the new parliament, as a BNP-allied coalition partner rather than a full BNP member, gives him a distinctive position that carries both opportunities and vulnerabilities. As an independent-minded politician from a coalition party, he has somewhat more latitude to express views that diverge from the BNP's official positions than full party members might. His social media commentary on issues including the Asif Mahmud duck meat controversy demonstrated that he was willing to use this latitude for political effect, though the specific instance was not his most intellectually distinguished contribution.

His role as a member of parliament from Dhaka-17, a constituency in central Dhaka with a mixed social composition, requires attention to the specific needs and concerns of his constituents that may or may not align with his broader political positioning. The tension between the role of MP as constituency representative, responding to the immediate material concerns of local voters, and the role of MP as national political figure advocating for systemic reform and institutional development, is one that all members of parliament must navigate. His background, including his practice as a barrister, his role as Principal of the British School of Law, and his family's legacy in Bangladeshi politics, potentially equips him to contribute to parliamentary debate on legal and constitutional questions with some expertise.

The most important question about Rahman's parliamentary career going forward is whether he will use the legal expertise and constitutional awareness that his training and practice have given him to contribute substantively to the legislature's scrutiny of the new government's legislative agenda. Bangladesh's parliaments have historically been weak institutions in which the opposition's scrutiny role is undermined both by the mathematics of parliamentary representation and by the absence of strong institutional support for parliamentary committees and research. An MP with genuine legal expertise who is willing to engage seriously with legislation on its substantive merits, rather than simply voting along party lines, could make a distinctive contribution.

CHAPTER SIXTEEN: PHILOSOPHICAL DEEPENING

Justice, Legitimacy, and Transformation

The Concept of Political Obligation in the Bangladeshi Context

The transitional period from August 2024 to the formation of the new government in early 2026 raised in acute form the question of political obligation: the question of why citizens are obligated to obey the law and comply with the directives of political authority. This question, as old as political philosophy itself, has received sophisticated treatment in the modern tradition from figures including Plato (who explored it in the Crito through Socrates's decision to accept an unjust death sentence rather than escape), through Locke and Rousseau (who grounded political obligation in consent), through John Rawls (who grounded it in principles of fair social cooperation), and through contemporary theorists including A. John Simmons (who has argued that full political obligation cannot be justified in practice for most citizens in most states).

The Bangladeshi case illustrates the difficulty of justifying political obligation in conditions of governmental illegitimacy. If the elections of 2018 and 2024 were not genuinely free and fair expressions of popular will, as virtually all credible observers agreed they were not, then the governments produced by those elections lacked the consent-based legitimacy that Lockean theory requires. If those governments also violated fundamental principles of justice, including the right to life, freedom from arbitrary detention, and protection from political persecution, they also lacked the Rawlsian fair cooperation basis for political obligation.

The implication of this analysis, which several of our subjects articulated in varying degrees of explicitness, is that citizens and lawyers operating under the Hasina government were not fully obligated to comply with all of its directives, particularly those directives that required active participation in injustice. Farhana's declaration of the elections as illegal, Majumdar's diaspora advocacy criticizing the government, Fuad's institutional critique, and Manir's procedural challenges to specific government actions were all, in their different ways, exercises of the legitimate resistance that the failure of political obligation permits.

The more difficult question is about the obligations that apply in the transitional period and afterward. An interim government that was not elected also lacks the consent-based legitimacy that democratic theory requires, even if it was welcomed as an improvement over the government it replaced. An elected government whose elections, while more competitive than any since 2008, were still conducted in conditions that excluded one major party (the Awami League) and that attracted some concerns about particular irregularities, has partial rather than full democratic legitimacy. The political obligation citizens and lawyers owe to such a government is therefore also partial and conditional, stronger in areas where the government acts in good faith to implement genuine reforms and weaker in areas where it reproduces the structural pathologies of its predecessors.

Habermasian Discourse Ethics and the Quality of Bangladesh's Public Sphere

Jurgen Habermas's theory of discourse ethics provides another illuminating framework for evaluating the contributions of our seven subjects to Bangladeshi public life. For Habermas, the legitimacy of norms, including legal norms, depends on whether they could be endorsed by all affected parties in conditions of free and undistorted communicative discourse. Actual deliberative processes fall short of this ideal to varying degrees, and the quality of political and legal institutions can be partly assessed by how close they come to enabling the kind of open, equal, and reason-driven discourse that legitimate norm-generation requires.

The quality of Bangladesh's public sphere, understood in Habermasian terms, has been extremely poor during most of the period covered by this textbook. The systematic suppression of critical media, the imprisonment of journalists under the Digital Security Act, the dominance of partisan social media in political communication, and the polarization of public discourse into binary camps that treated any deviation from party orthodoxy as betrayal: all of these features of Bangladeshi political communication are direct negations of the conditions that Habermasian discourse ethics requires.

Against this background, the contributions of any of our seven subjects to genuine public deliberation about matters of public concern are valuable, even when those contributions are imperfect. Manir's public commentary on judicial independence, whatever its complications, contributes evidence-based analysis to a public sphere that needs more of it. Farhana's parliamentary speeches on gender inequality and on the quality of governance appointments provide substantive scrutiny of a kind that the formal opposition, if it existed and functioned properly, should routinely provide. Fuad's institutional analysis of governance failures gives intellectual structure to observations that most citizens make at the level of immediate experience without theoretical framework.

The characteristic failure across all seven subjects is the one identified in Part One: the tendency to deploy reason-oriented legal or intellectual argument selectively, when it supports one's political position, and to resort to strategic communication oriented purely toward political effect when it does not. This selective rationality is, of course, not unique to Bangladeshi politicians or lawyers. It is a nearly universal feature of political communication in conditions where strategic success rather than truth-seeking is the primary incentive. But it is a failure of intellectual integrity that reduces the quality of the public sphere below what it could be if our subjects applied to their own positions the same critical scrutiny they apply to their opponents.

Contemporary Legal Theory: New Developments and Their Bangladeshi Relevance

The period since 2020 has seen significant developments in several areas of legal theory that are directly relevant to the Bangladeshi situation. In transitional justice theory, the "justice cascade" thesis associated with Kathryn Sikkink has been refined and contested through detailed empirical research. Sikkink's original argument, in "The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics," held that the spread of human rights prosecutions was producing a positive effect on human rights practices globally by demonstrating that impunity was no longer automatic for perpetrators of grave violations.

More recent scholarship has qualified this optimistic thesis. Work by Clark and Kaufman and by others has shown that the effects of accountability processes depend heavily on their procedural quality, their timing relative to political transitions, and the specific political contexts in which they occur. Accountability proceedings that are seen as politically selective, that apply different standards to different political actors, or that are conducted without adequate procedural protections, may actually undermine rather than strengthen the norm of accountability by delegitimizing the very mechanisms through which accountability is supposed to be achieved.

This refined theoretical framework applies directly to the Bangladeshi ICT proceedings. If those proceedings are seen, domestically or internationally, as applying accountability selectively to the Awami League while protecting other political actors who may have committed comparable violations, their legitimacy is undermined. If they fail to meet international fair trial standards in ways that allow Hasina and others to credibly characterize the proceedings as politically motivated, the norm-setting effect of the trials is reduced. The responsibility of legal practitioners like Manir, who engage with these proceedings as advocates, to insist on procedural integrity even at the cost of political convenience, is therefore not merely a matter of professional ethics but of transitional justice strategy.

In constitutional law theory, the "global constitutionalism" debate has continued to evolve, with significant contributions from Vicki Jackson's work on comparative constitutional engagement, Ran Hirschl's research on courts as political actors, and the growing literature on constitutional populism and democratic backsliding. Tom Ginsburg and Aziz Huq's "How Democracies Die: Constitutional Revolutions and Their Consequences" argues that constitutional democracies can fail not only through sudden authoritarian coup but through a gradual process of constitutional erosion in which elected leaders use legal mechanisms to undermine the institutional checks that constrain them. Bangladesh's trajectory under the Hasina government is cited in this comparative literature as a case study in constitutional erosion.

The question for the post-August period is whether the new constitutional arrangements, including the proposed bicameral parliament, term limits, and enhanced fundamental rights, will succeed in creating institutional architecture more resistant to the kind of erosion that Bangladesh experienced. Ginsburg and Huq identify several factors that make constitutional erosion more likely: presidentialism rather than parliamentarism, weak opposition parties, executive control of electoral administration, and polarized political cultures in which political opponents are treated as enemies rather than adversaries. Several of these factors remain present in Bangladesh despite the August 2024 transition, which is grounds for cautious rather than confident optimism about the durability of reform.

In legal philosophy, the debates around the "new legal formalism" associated with Scott Shapiro's "Legality" and the responses from critics including Jeremy Waldron have refined the understanding of what law is and what it requires. Shapiro's "planning theory of law" argues that law is a system of plans created by social facts about institutional authority, and that legal validity derives from the procedural sources of law rather than from its content. This formalist approach has the attraction of clarity but the limitation that it cannot account for the legitimacy crises that arise when formal legal authority is exercised in ways that fundamental moral

principles condemn. The Bangladeshi experience of formal constitutional compliance coexisting with substantive injustice illustrates this limitation repeatedly.

The Question of Women's Political Representation: Beyond Farhana's Individual Case

Farhana's case is important not merely as an individual trajectory but as a lens through which to examine the structural conditions of women's political participation in Bangladesh more broadly. Bangladesh has, in some respects, an unusual gender equality story at the political leadership level: it is one of very few countries to have had two female prime ministers in succession over an extended period. But this leadership-level gender equality coexists with extremely low levels of women's representation in parliament and at all levels of political party organization.

The combination of female leadership and low female representation is not a paradox. It reflects the dynamics of dynastic succession in South Asian politics, in which women of elite political families inherit leadership positions following the deaths or incapacitations of male family members, without this affecting the structural barriers to women's participation more broadly. Both Khaleda Zia and Sheikh Hasina inherited their political positions as the daughters or wives of founding male political figures, and neither systematically worked to increase women's representation in their parties or governments.

The reserved seats system for women in the Bangladeshi parliament, which provides 50 seats specifically for women allocated by party leadership, has been widely criticized as inadequate and as a tool for patronage rather than genuine gender equality. The reserved seats are distributed to party loyalists by leadership decision, not through competitive election, which means they reward political loyalty rather than reflecting women's own electoral strength. The constitutional reform proposals that are part of the post-August 2024 agenda include various proposals for addressing this inadequacy, including increasing the number of reserved seats, making them subject to electoral competition rather than party allocation, and setting minimum gender quotas for candidate selection in general seats.

The feminist jurisprudence literature provides important theoretical grounding for evaluating these proposals. Catherine MacKinnon's foundational work on the difference between formal equality and substantive equality is directly relevant. Formal equality (treating women the same as men in electoral procedures) is insufficient when the starting conditions are unequal. MacKinnon's dominance theory, which focuses on the systemic power relations that produce inequality rather than on individual instances of discrimination, suggests that achieving genuine gender equality in political representation requires addressing the organizational cultures, resource access conditions, and social expectations that systematically disadvantage women as political candidates.

The specific organizational culture of the BNP, as revealed by the Farhana expulsion episode, is one in which loyalty to the leadership hierarchy is valued more highly than merit, electoral success, or the kind of principled advocacy that Farhana embodied. In such a culture, women face a double bind: they are expected to demonstrate loyalty in the same ways that men are, by deferring to leadership decisions and suppressing independent judgment, while also facing additional scrutiny and lower tolerance for deviation that reflects implicit gender bias. Farhana's

observation that she "stood alone" during the Hasina years while others hid, and that this sacrifice was not rewarded with constituency security, reflects precisely this double bind.

CHAPTER SEVENTEEN: NIJHUM MAJUMDAR IN THE DIASPORA

International Advocacy, Accountability Politics, and the Exile Intellectual

The Diaspora Intellectual Tradition

Nijhum Majumdar's position as a diaspora intellectual and political activist operating from London places him within a tradition of diasporic political engagement that has been enormously important in Global South political history. From José Martí's advocacy for Cuban independence from New York, through Ho Chi Minh's political formation in Paris, through Nelson Mandela's international networking from prison and beyond, to more recent examples like the Tibetan diaspora government-in-exile and the Venezuelan opposition operating from abroad: the exile intellectual has historically served multiple functions simultaneously. They provide a politically safer platform from which to articulate criticisms of the home government that would be impossible domestically. They create international awareness and advocacy that can influence foreign governments and international organizations. They maintain communication channels between domestic opposition and international support networks. And they develop theoretical frameworks for understanding the political crisis of the home country that the more immediate pressures of domestic political survival make difficult.

Majumdar's specific contributions to this tradition include his published books on international criminal law and on the Indemnity Act of 1975, his speaking engagements at international conferences and in conversations with foreign officials and journalists, and his media commentary addressing a global as well as a Bangladeshi audience. His 2025 Washington visit, described in the interview cited in Part One, represents the classic diaspora intellectual mode of translating domestic political concerns into the language and frameworks most accessible to international policymakers.

The most serious intellectual criticism of diaspora advocacy is the one about representativeness: Does the diaspora intellectual speak for the people of the home country, or do they represent primarily the perspectives and interests of the diaspora community, which may diverge significantly from those of people who remain in the home country under its actual conditions? This criticism has particular force in cases where the diaspora intellectual's political positioning diverges from the views of the majority of the home population as expressed in electoral behavior or public opinion surveys.

In Majumdar's case, the criticism has an additional dimension arising from his political association with the Awami League tradition. The overwhelming popular rejection of the Awami League in the August 2024 uprising and the subsequent political realignment, in which the party was banned from electoral participation and its leadership prosecuted, creates a significant gap between Majumdar's political tradition and the direction of popular political sentiment in

Bangladesh. His continued advocacy for positions associated with the Awami League tradition, even if framed in the language of international law and human rights, faces a severe representativeness challenge in a context where that tradition's domestic credibility has collapsed.

This does not mean that all of Majumdar's analytical positions are wrong. The collapse of popular support for a political tradition does not invalidate every position associated with that tradition. Many of the concerns he has raised about Islamist influence, foreign agency involvement in Bangladeshi politics, and the conditions for democratic governance are analytically serious questions regardless of their political source. But the representativeness challenge does mean that his advocacy requires more careful grounding in verifiable evidence and more acknowledgment of the complexity of the political situation than his characterization of Bangladesh's post-August period as a "descent into chaos" suggests.

The International Criminal Law Scholarship: An Assessment

Majumdar's three books on international criminal law represent his most substantial intellectual contribution and deserve assessment in their own right, independent of his political positioning. International criminal law as a field has undergone dramatic development since the 1990s, driven by the operation of the ICTY and ICTR, the establishment of the ICC, the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, and numerous other hybrid and domestic accountability mechanisms. The theoretical frameworks used in these proceedings have evolved rapidly, and the scholarly literature reflecting on that evolution is extensive.

The specific questions on which Majumdar has written about international criminal law are not fully detailed in the sources available to this textbook, but the general frameworks of international criminal law most relevant to the Bangladeshi situation include joint criminal enterprise (JCE) liability, command responsibility, and the elements of crimes against humanity. JCE doctrine, developed substantially by the ICTY, holds that all members of a joint criminal enterprise who share the common purpose are individually criminally responsible for crimes committed in furtherance of that purpose, even if they did not physically participate in specific criminal acts. Command responsibility holds that military and civilian commanders are responsible for crimes committed by subordinates if they knew or should have known of those crimes and failed to prevent or punish them.

These doctrines are directly applicable to the ICT's proceedings against Hasina and other Awami League figures for the 2024 killings. To the extent that Majumdar's scholarly work develops and refines these doctrines with reference to the specific conditions of Bangladeshi political violence, it potentially contributes to the jurisprudential quality of the ICT's proceedings. The irony that the same legal frameworks used to prosecute the government with which he was politically associated may, in a different political moment, be applicable to members of that government, is one that Majumdar's scholarship, if intellectually honest, must acknowledge.

The Indemnity Act Analysis: Legislative Impunity and Its Consequences

Majumdar's two books on the Indemnity Act of 1975 connect to one of the most profound and unresolved questions in Bangladeshi legal history. The Act, as discussed in Part One, provided immunity for the perpetrators of the August 15 and November 3, 1975 killings. Its enactment represented a legislative grant of impunity that was simultaneously an act of raw political power by the government of the period and a profound challenge to the rule of law principle that no one is above the law.

The jurisprudential analysis of legislative impunity has become more sophisticated since the 1990s, as the international community has grappled with the relationship between amnesty, truth, and justice in transitional contexts. The Inter-American Court of Human Rights' jurisprudence on amnesty laws, particularly its Barrios Altos decision (2001) involving Peruvian amnesty legislation, established the principle that amnesty laws covering grave violations of human rights are incompatible with the American Convention on Human Rights and are therefore void. Similar conclusions have been reached by the African Commission on Human and Peoples' Rights and, in the case of the Lomé Peace Agreement's amnesty provisions, by the Special Court for Sierra Leone.

The application of these principles to the Indemnity Act of 1975 requires attention to the specific treaty obligations binding on Bangladesh. Bangladesh is a party to the ICCPR and to the Convention Against Torture, both of which contain provisions that international bodies have interpreted as requiring investigation and prosecution of grave violations and therefore as inconsistent with comprehensive amnesty legislation. The Bangladeshi Supreme Court's 2009 decision, in proceedings arising from the prosecution of the August 15 killings, which effectively invalidated the Indemnity Act's provisions that shielded the perpetrators of those killings, can be understood as an application of this international law framework to the domestic context.

Majumdar's scholarship on the Indemnity Act, which apparently makes the case for its invalidity under both domestic constitutional law and international legal obligations, is therefore a contribution to a debate that has been resolved in the direction of accountability in the domestic courts but that raises continuing questions about the relationship between political expediency and legal principle in the exercise of legislative power. The broader lesson from Bangladesh's Indemnity Act experience, that legislative grants of impunity do not permanently foreclose accountability but simply defer it, is one with implications for the current accountability processes against the Awami League: even if political changes were to produce legislative interference with those processes, the international law principle against impunity would continue to exert normative pressure for accountability.

CHAPTER EIGHTEEN: ANDALEEVE RAHMAN AND THE LAW OF POLITICAL DYNASTIES

Inheritance, Reform, and the Sociology of Elite Politics

The Dynastic Dimension of Bangladeshi Legal-Political Culture

The career of Andaleeve Rahman Partho raises, more acutely than any of our other six subjects, the question of dynastic politics and its relationship to democratic principle. In the formal logic of democratic theory, political positions should be won through competition among candidates on the basis of their qualifications, policy positions, and demonstrated capacity to serve constituents. The inheritance of political positions through family connections, while not prohibited by democratic rules, creates at minimum a tension with democratic meritocracy that requires explanation and justification.

Partho's political inheritance includes the chairmanship of the Bangladesh Jatiya Party, founded by his father Naziur Rahman Manzur. This inheritance is more easily justified than the direct inheritance of elected positions (such as the parliamentary dynasties of the Zia and Hasina families) because party leadership is in principle a matter for party members rather than for the electorate at large. Nevertheless, the inheritance of party leadership through family succession rather than through open internal competition reflects the organizational culture of family-centered political organizations that characterizes much of South Asian political life.

The sociological analysis of political dynasties has been developed extensively in the comparative politics literature. In their study "Political Dynasties," Dal Bo, Dal Bo, and Snyder document the conditions under which political dynasties arise and persist, finding that incumbency advantages, name recognition, and the concentration of political networks in families create structural incentives for dynastic succession. The normative evaluation of this pattern depends on whether dynastic politicians use their inherited advantages to serve genuine public interests or primarily to perpetuate family control over political resources.

Partho's specific case contains elements that make the normative evaluation genuinely complex. On one hand, his family's legacy in Bangladeshi politics includes his father's role as a freedom fighter and his maternal family's history of public service, which provides a genuine tradition of commitment to public life that is not reducible to simple self-interest. His investment in legal education through the British School of Law represents a contribution to institutional development that goes beyond personal career management. And his parliamentary career, while still in its early stages, has shown some willingness to engage with substantive issues rather than simply performing coalition loyalty.

On the other hand, the advantages his family connections have provided, including the inherited party chairmanship, the social networks that facilitated his legal apprenticeship with Barrister Rafiqul Haq, and the coalition political support that allowed him to contest and win in Dhaka-17 without BNP opposition, represent a form of inherited political capital that raises legitimate questions about whether these advantages are consistent with the principles of democratic meritocracy that his public advocacy tends to invoke.

The British School of Law and the Politics of Legal Education

Partho's role as Principal of the British School of Law in Dhaka deserves sustained attention as a contribution to Bangladeshi legal culture that sits somewhat outside the conventional categories of political or legal advocacy. Legal education, as an institutional activity, shapes the

professional culture of the next generation of lawyers in ways that may prove more durable than any individual case or political intervention.

The specific educational philosophy of the British School of Law, as an institution offering English-style legal education in Bangladesh, reflects a set of choices about what the legal profession should be. The emphasis on English common law training, on advocacy skills developed through the mooting and mock-trial traditions of the English bar, and on a cosmopolitan legal culture that connects Bangladeshi students to the global common law tradition, reflects a judgment that the path to a higher quality legal profession in Bangladesh runs through engagement with the most sophisticated external legal traditions rather than through the development of a distinctively Bangladeshi legal pedagogy.

This judgment is defensible but contestable. The argument in its favor is that the English common law tradition represents several centuries of accumulated wisdom about the design of legal institutions that produce justice rather than merely administering power, and that students who engage deeply with this tradition will bring higher standards of professional practice to the Bangladeshi legal system. The argument against is that uncritical adoption of English legal frameworks may reproduce colonial assumptions and categories that are ill-adapted to Bangladeshi social realities, and that genuine improvement in the quality of Bangladeshi legal practice requires developing frameworks that take seriously the specific conditions and values of Bangladeshi society.

The most sophisticated approach to legal education in postcolonial societies, reflected in institutions like the National Law School of India University in Bangalore, combines rigorous engagement with both domestic and international legal traditions while cultivating a critically reflective attitude toward both. Whether the British School of Law achieves this combination, or whether it leans more heavily toward uncritical adoption of English legal frameworks, is a question that would require detailed examination of its curriculum and pedagogy that goes beyond what this textbook can undertake.

CHAPTER NINETEEN: THE DIGITAL SECURITY ACT, THE CYBER SECURITY ACT, AND THE LIMITS OF FREE EXPRESSION

A Jurisprudential Analysis of Speech, Silence, and Law

The Legal Architecture of Expression Control

The Digital Security Act (DSA) of 2018 and its successor, the Cyber Security Act (CSA) of 2023, represent the most systematic legislative assault on freedom of expression in Bangladesh's post-1991 democratic period, and their use against journalists, bloggers, opposition politicians, and online commentators provides an important context for understanding the environment in which all seven of our subjects operated during the Hasina years. Understanding this legislative architecture, its constitutional deficiencies, and the court proceedings that challenged it is essential for understanding the specific vulnerabilities and strategies of our subjects.

The DSA's key provisions, including section 28's prohibition on material that "deteriorates law and order, prejudices the image of the state or person or hurts religious feelings or incites against any person or organization," are models of the kind of vague, overbroad, and viewpoint-discriminatory legislation that constitutional lawyers identify as the most serious threats to freedom of expression. The vagueness is not accidental. Laws that prohibit speech in specific, defined terms, such as incitement to imminent lawless action (the US standard established in Brandenburg v. Ohio), are far less useful as instruments of political control than laws that prohibit speech in terms broad enough to cover virtually any critical commentary. The DSA was designed for control, and it functioned accordingly.

The international law standards on freedom of expression have been articulated with increasing precision by the Human Rights Committee, the Special Rapporteur on Freedom of Expression, and regional human rights courts. The three-part test applicable under Article 19(3) of the ICCPR requires that restrictions on expression must be provided by law (implying sufficient clarity and foreseeability), must pursue a legitimate aim (explicitly listed as protecting the rights of others, national security, public order, public health, or public morals), and must be necessary and proportionate to achieving that aim. The DSA fails all three parts of this test. It is insufficiently clear to provide foreseeability, it applies to a range of expression that goes far beyond the legitimate aims specified in the ICCPR, and it imposes the most severe criminal sanctions (including imprisonment for up to 14 years for some offenses) on categories of expression that pose no identifiable harm proportionate to those sanctions.

All seven of our subjects were affected by the DSA environment in different ways. Majumdar's social media commentary, operating from London, was geographically beyond the Act's immediate enforcement reach but illustrates the conditions under which diaspora advocacy becomes particularly important when domestic expression is systematically chilled. Manir's professional practice representing DSA defendants, and his withdrawal from the Abrar case in circumstances that included public social media pressure, reflects the way in which the online expression environment can affect even professional legal conduct. Farhana's use of parliamentary privilege to make statements that would have been legally risky outside the parliament illustrates the strategic use of institutional protections to circumvent expression controls.

The CSA of 2023, which replaced the DSA, made some procedural modifications but retained the substantive prohibition framework that made the DSA so effective as an instrument of political control. The post-August 2024 government's repeal of the DSA and promise to reform the CSA were among the early positive signals of the transitional period. Whether those reforms have been substantively adequate, or whether the CSA continues to function as a tool for controlling expression that challenges political authority, is a question whose full answer will depend on how the new government's relationship with media and online criticism evolves.

CHAPTER TWENTY: SYNTHESIS AND EVALUATION

The Seven Subjects Assessed Against Jurisprudential Standards

The Integrity Test Revisited

Part Two's preface identified integrity, in Bernard Williams's sense of coherent integration of deepest commitments into action over time, as the central evaluative criterion for assessing our seven subjects. Having examined each subject in considerable detail across Part One and Part Two, it is now possible to offer a preliminary evaluation that will be refined and extended in Parts Three through Seven.

Williams's analysis of integrity in "Moral Luck" and "A Critique of Utilitarianism" focuses specifically on the question of whether a person's actions are genuinely their own, flowing from their deepest commitments rather than from external pressures or strategic calculations. A person who acts in accordance with their principles when it is easy to do so but abandons them when the cost becomes significant is not, on Williams's analysis, demonstrating integrity. Integrity requires consistency across contexts, including contexts where consistency is costly.

Evaluated against this standard, the following preliminary assessments emerge from Part Two's analysis, subject to the qualification that these are assessments of public record rather than of private character, and that the evidence available does not always permit definitive conclusions.

Rumeen Farhana emerges from Part Two's analysis with the strongest claim to integrity among our seven subjects, specifically with respect to her willingness to maintain consistent standards across her political career. Her declaration of the 2024 election as illegal in parliament, her independent candidacy against the wishes of her party, her criticism of the BNP government's appointments even after her own expulsion created an obvious incentive for simple retaliation rather than principled critique, and her consistent advocacy for women's political representation and institutional accountability: all of these reflect a coherence between stated principles and actual behavior that is genuinely impressive in the context of Bangladeshi political culture, whatever the individual flaws and inconsistencies in specific episodes.

Mohammad Shishir Manir shows strong integrity in his advocacy for judicial independence, including his willingness to criticize the BNP government's repeal of the judicial secretariat ordinance despite political pressure to maintain coalition solidarity. His procedural commitment, the insistence on proper legal process regardless of political outcome, is a form of legal integrity even if it sometimes frustrates those who prioritize substantive justice over procedural compliance. The Abrar case withdrawal, however, represents a significant failure of professional integrity that must qualify any overall positive assessment.

Asaduzzaman Fuad demonstrates intellectual integrity in his institutional analysis, maintaining a systemic framework that resists the temptation of purely partisan framing. His willingness to criticize the post-August interim government's performance while supporting its legitimacy in principle reflects the kind of contextually appropriate but principled criticism that integrity requires. The accessibility argument against proportional representation sits in some tension with his reform rhetoric, but it is a defensible position rather than a clear abandonment of principle.

Bobby Hajjaj's trajectory, from third-force reform advocate to BNP-aligned minister, represents the most significant apparent departure from consistent principle among our seven subjects. The

pragmatic justification for this trajectory, that genuine reform requires access to power and that alliance with the BNP was the most feasible path to that access, is not without merit. But the specific form of the alliance, including the abandonment of the NDM that Hajjaj had built, and the adoption of the BNP's organizational structure which embodied many of the institutional pathologies he had previously criticized, represents a form of institutional complicity that his reform rhetoric makes difficult to fully justify.

Nijhum Majumdar's situation is the most complex for assessment because the events of the post-August period, specifically the murder case naming him as an accused, have created a context in which his prior positions are being evaluated against standards he himself helped to establish. His integrity test is the most demanding: Can a scholar of international criminal law and accountability maintain intellectual consistency when those frameworks are applied against figures from his own political world, including himself? The evidence from public sources suggests a mixed picture, with his acceptance of legal process ("I'll deal with it legally") reflecting one kind of consistency, while the political re-positioning evident in his Washington advocacy reflects another kind of adaptation that may or may not be consistent with his deepest prior commitments.

Barrister Suman's integrity assessment is similarly complex. His pre-2024 advocacy against financial crime and political corruption was, to the extent it was genuine, a form of institutional integrity that required courage in the political environment of the Hasina years. The extent to which that advocacy was itself enabled by political protections that also made him complicit in the system he was criticizing is a genuine analytical difficulty. His post-August situation, in which the accountability mechanisms he had advocated are now being applied to him, represents the most direct integrity test any of our subjects faces.

Andaleeve Rahman is the most difficult of the seven to assess in terms of integrity, primarily because his public record is less extensive and his specific political positions on the most contested questions of the period are less fully documented than those of the other subjects. His social commentary has been engaging but not consistently substantive. His legal practice and educational work are commendable but not sufficiently well-documented in available sources to permit the kind of detailed assessment that the other subjects' work allows.

The Structural Limits of Individual Integrity

It would be a failure of analytical seriousness to conclude this chapter without acknowledging the limits of individual integrity as an analytical framework for understanding the careers and contributions of our seven subjects. The structural analysis developed throughout Part Two suggests that many of the failures and inconsistencies we have identified in their specific behaviors and statements are not primarily failures of individual character but reflections of structural conditions that systematically make integrity difficult to maintain.

The political economy of Bangladeshi politics, in which the costs of principled dissent are high and the rewards of organizational loyalty are substantial, creates strong incentives for the kind of strategic instrumentalization of principles that undermines integrity. The structural dependence of the legal profession on political connections, in a system where judicial appointments, lawyer

enrollments, and the development of legal careers all intersect with political patronage, makes the maintenance of genuine professional independence extraordinarily difficult. The media environment, which rewards simplification, passion, and tribal signaling over careful analysis, makes the kind of nuanced public communication that integrity requires professionally disadvantageous.

These structural constraints do not excuse individual failures of integrity. Structural incentives explain behavior without justifying it, and the fact that most people in similar situations make similar compromises does not make those compromises right. But they do suggest that the project of improving the quality of legal and political life in Bangladesh cannot rely primarily on identifying and celebrating individuals of sufficient personal integrity to resist structural pressures. It requires structural change of the kind that Fuad's institutional analysis, Manir's judicial independence advocacy, and Hajjaj's reform proposals all gesture toward, though none has yet fully articulated in ways that address the deepest sources of the problem.

The intellectual project that this textbook represents is itself a contribution to structural change, if a modest one. By subjecting the claims, actions, and positions of legal-political figures to detailed jurisprudential and philosophical scrutiny, and by making that scrutiny accessible to a wider audience than professional academic journals typically reach, the textbook contributes to the formation of a more demanding standard for public discourse about law and politics in Bangladesh. It is a contribution made in awareness of its own limitations, including the limitations of analysis conducted at a distance from the specific social conditions it examines and in awareness that even the most rigorous scholarship is shaped by the assumptions and interests of its author.

Parts Three through Seven will carry forward this project with attention to the specific jurisprudential arguments that our seven subjects have made in their most important interventions, the comparative constitutional context that illuminates those arguments, the theoretical frameworks that evaluate them, and the practical implications of their work for the future of law and democracy in Bangladesh.

SUPPLEMENTARY ANALYSIS: THE CONSTITUTIONAL REFORM COMMISSION AND ITS SIGNIFICANCE FOR OUR SEVEN SUBJECTS

The Report, Its Proposals, and Their Jurisprudential Assessment

The Constitutional Reform Commission (CRC), formed in October 2024 as one of several reform bodies established by the interim government, submitted its report in January 2025. The report's proposals, which include the introduction of a bicameral parliament, term limits for top offices, and an expanded bill of rights, represent the most comprehensive constitutional reform agenda Bangladesh has considered since the original 1972 constitution. Their significance for our seven subjects is both substantive, since several of them have public positions on constitutional design questions, and institutional, since the implementation or non-

implementation of the proposals will shape the legal and political environment in which they operate.

The proposal for a bicameral parliament is one of the most significant and most debated elements of the CRC report. The theoretical argument for bicameralism in Bangladesh's specific context is grounded in the need for a second legislative chamber that can provide additional scrutiny of legislation and serve as a check on majoritarian excess in the lower house. The comparative evidence on bicameralism is mixed: bicameral systems can improve legislative quality by providing additional deliberative stages, but they can also create gridlock, give disproportionate power to geographic or functional minorities, and add administrative complexity without compensating benefits.

In Bangladesh's specific situation, the argument for bicameralism rests partly on the desire to create a legislative institution less immediately responsive to the winner-takes-all dynamics of general elections, which have historically produced parliamentary super-majorities that overwhelm constitutional checks. A Senate or upper house with different electoral timing, different constituency structures, or different functional representation could provide a more stable institutional counterweight to the lower house's vulnerability to these dynamics.

Term limits for top offices, including the Prime Minister and President, address the specific vulnerability that Bangladesh's parliamentary system has demonstrated to the concentration of power in long-serving executives. The seventeen-year tenure of Sheikh Mujibur Rahman's successors as political leaders (Khaleda Zia and Hasina between them dominated Bangladeshi politics for three decades) illustrates the degree to which personal political longevity can substitute for institutional accountability. Term limits are a constitutional precommitment mechanism of the kind discussed in relation to Fuad's reform charter proposals, binding the political system against the natural human tendency to accumulate and perpetuate power.

The expanded bill of rights is perhaps the most immediate in its effects on legal practice. If the fundamental rights provisions of the constitution are strengthened, the scope for rights-based litigation of the PIL kind that Suman engaged in, and for the constitutional advocacy that Manir has practiced, is correspondingly expanded. More robust constitutional rights protections create more tools for legal accountability and more opportunities for lawyers to use the courts as venues for challenging governmental overreach.

The non-participation of the Awami League in the constitutional reform process, following its banning, is a significant limitation that all of the CRC's proposals must be evaluated against. Constitutional reform that is achieved without the participation of a major political force representing a substantial section of the population, even a force that has itself been guilty of constitutional violations, is constitutionally incomplete in a meaningful sense. The risk that a constitutional order designed without Awami League participation will be seen by Awami League supporters as illegitimate, and resisted accordingly, is a genuine political risk that may undermine the durability of whatever reforms are enacted.

This is precisely the kind of problem that Lon Fuller's internal morality of law, discussed in Part One, would identify as fatal to the law's practical efficacy. A constitution that is not accepted as

legitimate by a substantial portion of the population it purports to govern will not function as a genuine constraint on political behavior but will instead be treated as a contested artifact of a particular political moment, to be revised or ignored when political circumstances change. Constitutional design, as one of the most important applications of legal wisdom, requires attention not merely to the substantive quality of the provisions but to the process by which they are achieved and to the breadth of the political community that accepts them as legitimate.

The lessons of South Africa's constitutional process in the mid-1990s are instructive in this regard. The South African constitutional negotiation was notable precisely for its inclusivity, its willingness to engage with actors who had been on both sides of the apartheid conflict, and its commitment to producing a document that could serve as a genuine point of national unity rather than a partisan constitution of the victors. The results, including a constitutional text widely regarded as among the most progressive and carefully designed in the world, were inseparable from the inclusive process through which they were achieved. Bangladesh's post-August constitutional reform process has been less inclusive, and its results may prove correspondingly less durable.

CONCLUSION TO PART TWO

Part Two has deepened and complicated the analysis established in Part One through detailed examination of the specific controversies, accountability debates, internal conflicts, and jurisprudential arguments that characterize the post-August 2024 period. Several analytical conclusions emerge with particular clarity.

First, the accountability processes of the transitional period, including the ICT proceedings against Hasina and Awami League figures, the criminal cases against figures like Suman and Majumdar, and the broader pattern of political and legal reckoning, raise genuine jurisprudential questions about procedural standards, selective application, and the relationship between accountability and political stabilization that none of our seven subjects has fully addressed in their public interventions. The quality of legal advocacy on these questions, including Manir's procedural orientation, Farhana's political advocacy, and Fuad's institutional analysis, has been valuable but incomplete.

Second, the internal party conflicts, especially within the BNP, illustrated most dramatically by Farhana's expulsion, reveal the persistence of organizational pathologies that the reform rhetoric of the post-August period has not yet translated into institutional change. The gap between the rhetoric of democratic renewal and the practice of organizational politics is a recurring feature of Bangladeshi political life that our subjects, for all their legal sophistication, have not yet found effective ways to bridge.

Third, the role of the legal profession as an institution, including the bar associations, the Supreme Court Bar Association, and the professional culture of legal practice, in supporting or undermining the reform agenda is a dimension of the broader political situation that is underanalyzed in public discourse. Manir's call for professional solidarity in defense of judicial

independence, and the specific institutional arrangements through which the legal profession could strengthen rather than weaken constitutional governance, deserve more systematic attention than they have received.

Fourth, and most fundamentally, the period examined in Part Two illustrates with painful clarity the insufficiency of individual virtue as a basis for constitutional democracy. The legal-political culture of Bangladesh needs not just better individuals, though individuals of integrity and intelligence like those we have examined are certainly valuable, but structural reforms that make it less costly to act with integrity, that create stronger institutional incentives for honest political conduct, and that reduce the monopoly of established political networks over legal and political careers.

Parts Three through Seven will examine these conclusions in relation to the specific jurisprudential arguments, comparative constitutional frameworks, and theoretical analyses that give them their fullest meaning.

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End of Part Two

Part Three: Jurisprudential Arguments in Detail: Constitutional Provisions, Case Law, and Their Theoretical Foundations

Part Four: Gender, Minority Rights, and the Structural Politics of the Bar in the Post-August Period

Part Five: Foreign Relations Law, Sovereignty, and the International Dimensions of Bangladesh's Legal-Political Crisis

Part Six: The New Parliament, Legislative Agenda, and the Constitutional Reform Process

Part Seven: Comparative Perspectives, Theoretical Conclusions, and Assessment of Future Trajectories

Part Three: Jurisprudential Arguments in Detail: Constitutional Provisions, Case Law, and Their Theoretical Foundations

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PREFACE TO PART THREE

Parts One and Two established the biographical, historical, and contextual architecture of this textbook. Part One introduced the seven subjects, the constitutional history of Bangladesh, and the philosophical frameworks through which their careers and controversies would be examined. Part Two moved into the turbulent specificity of the post-August 2024 transitional period, examining the accountability debates, internal party conflicts, and individual integrity tests that that period generated. Part Three descends further, into the detailed technical and philosophical analysis of specific legal arguments, constitutional provisions, judicial decisions, and statutory frameworks that have been the actual tools and battlegrounds of our seven subjects' professional lives.

This is the part of the textbook that most directly resembles a law review article or a constitutional law casebook, and it makes no apology for that resemblance. The argument of this textbook as a whole is that the legal-political figures it examines cannot be understood without understanding the legal materials with which they work, the precedents they invoke and distinguish, the constitutional provisions they argue about, and the theoretical frameworks that give those arguments their structure and persuasive force. Biographical and contextual analysis, however rich, is insufficient without this technical layer. And the technical layer, however precise, is insufficient without the biographical and contextual dimensions that Parts One and Two have provided. Part Three attempts to bring these two levels of analysis into productive dialogue.

The specific jurisprudential arguments examined in this part fall into seven broad categories, each of which is treated in a dedicated chapter or section. The first is the constitutional status of the July Charter and the referendum of February 2026, including the Grundnorm questions that the Charter's implementation raises and the specific constitutional provisions that the BNP government's refusal to participate in the Constitutional Reform Council invokes. The second is the judicial independence question, centered on Article 116 of the constitution and the Masdar Hossain line of precedents, in which the specific legal argument about the subordinate judiciary's control has been most precisely articulated. The third is the crimes against humanity jurisprudence of the International Crimes Tribunal, examining the specific doctrinal elements that the Hasina prosecution must establish and the theoretical frameworks that evaluate the legitimacy of the proceedings. The fourth is the freedom of expression provisions and their relationship to the Digital Security Act and Cyber Security Act legislative architecture, including the international law standards that apply. The fifth is the fundamental rights adjudication in the post-August courts, including the proportionality doctrine and its application to specific rights claims. The sixth is the parliamentary sovereignty versus constitutional supremacy debate that the July Charter dispute has brought to a head, connecting to the deepest questions of constitutional theory. The seventh draws these threads together through the specific constitutional arguments that each of our seven subjects has advanced, evaluating them against the technical legal standards established in the preceding analysis.

Throughout, the goal is the same as in Parts One and Two: to understand, to analyze, and where appropriate to evaluate, deploying the most sophisticated available theoretical frameworks in the service of genuine intellectual engagement with the specific Bangladeshi legal-political situation.

CHAPTER TWENTY-ONE: THE JULY CHARTER AS CONSTITUTIONAL EVENT

Grundnorm, Popular Sovereignty, and the Problem of Extra-Constitutional Authority

The Constitutional Event and Its Legal Status

The July National Charter, signed on October 17, 2025, by the National Consensus Commission and twenty-four political parties, represents one of the most constitutionally unusual documents in Bangladeshi legal history, and its unusual character is not merely a matter of political circumstance but of fundamental jurisprudential importance. To understand why requires beginning with the most basic question that can be asked about any legal document: what gives it legal force?

The July Charter was not enacted through any procedure specified in the constitution of Bangladesh. It was not a statute passed by parliament, because there was no parliament at the time of its signing, the Hasina parliament having ceased to function with the flight of the Prime Minister and the subsequent formation of the interim government. It was not a constitutional amendment, because Article 142 of the constitution specifies that amendments require a two-thirds majority of all members of parliament, and no parliament existed or could be convened under the conditions of the transitional period. It was not a judgment of any court, because courts do not sign charters with political parties. It was, in the most basic descriptive sense, a political agreement between an unelected interim administration and a selection of political parties, not including the Awami League, about what constitutional changes should be pursued.

The November 2025 Implementation Order issued by President Mohammed Shahabuddin attempted to give this political agreement legal force by invoking an authority derived not from any specific constitutional provision but from, in the language of the Order itself, "the sovereign popular will, expressed by the people through the successful student mass uprising in July-August 2024." This is a remarkable claim from a jurisprudential perspective, because it asserts that popular uprisings can themselves be sources of legal authority, independent of the constitutional framework that the uprising's consequences disrupted.

Hans Kelsen's concept of the Grundnorm, examined in Part One in the context of the August 2024 transition, returns here with renewed urgency. For Kelsen, the basic norm that gives validity to a legal order is presupposed rather than enacted; it is the necessary presupposition that makes legal reasoning within the system possible. When a legal order is replaced by another through revolution, the Grundnorm changes. The key question for Bangladesh is whether the July-August 2024 uprising constituted a revolutionary change of Grundnorm in Kelsen's sense, or whether the existing constitutional order survived the uprising, requiring all subsequent legal changes to proceed through the amendment procedures of the 1972 constitution.

The Implementation Order's invocation of "sovereign popular will" as the source of its authority is, on a strict Kelsenian reading, either a claim that the Grundnorm has changed to one grounded in the uprising's popular legitimacy, or it is a political statement dressed in legal language that has no genuine normative force within the existing constitutional order. Neither interpretation is entirely comfortable. The first interpretation implies that the existing constitutional text has been

superseded, which creates radical uncertainty about which constitutional provisions remain valid and which have been replaced. The second interpretation undermines the legal force of the charter itself, reducing it to a political declaration that can bind parties only through political rather than legal mechanisms.

The Bangladesh Supreme Court's Appellate Division, whose November 2025 ruling in the caretaker government case used the striking phrase "judicial murder of democracy" to describe the 2011 decision striking down the Thirteenth Amendment, has itself adopted an approach that invokes the uprising's transformative significance as a context for constitutional interpretation. The full judgment of March 12, 2026, went further than any previous Supreme Court decision in acknowledging the political pressures that had shaped earlier constitutional jurisprudence, observing, in the language quoted in Part Two's supplementary analysis, that the judiciary in 2011 had "appeared to have buckled under legislative pressure." This acknowledgment is itself jurisprudentially significant: it represents the Supreme Court's own recognition that prior constitutional judgments were not merely legal decisions but were also political accommodations, and that the post-August moment creates an opportunity to restore constitutional analysis to something closer to genuine principle.

The BNP's position on the July Charter dispute is, from a constitutional law perspective, a stronger one than its political critics acknowledge. The party's argument that MPs cannot legally serve on the Constitutional Reform Council because the constitution does not create such a body, and because the oath prescribed in the Third Schedule of the constitution does not include any reference to a reform council role, is grounded in specific constitutional provisions rather than in mere political convenience. Article 65, as the Asia Times analysis correctly notes, establishes parliament as "the supreme legislative body" and defines the role of MPs in terms of legislative functions. A constitutional reform council that operates in parallel with parliament, drawing on MPs but functioning as a separate body under authority derived from a presidential order rather than from any constitutional or statutory provision, is a genuinely unprecedented institutional creation.

The theory of constitutional interpretation most relevant to this dispute is the debate between textualism and purposivism, which American constitutional law has developed most fully but which is applicable across common law constitutional systems. A textualist approach, reading the constitutional provisions strictly and refusing to imply powers not expressly stated, supports the BNP's position: if the constitution does not mention a reform council, MPs cannot be required to serve on one. A purposivist approach, reading constitutional provisions in light of their underlying purposes and the historical context in which they operate, could support the NCP and Jamaat position: the purpose of Bangladesh's constitutional design is to ensure effective popular government, the July Charter represents a genuine popular mandate, and the reform council is the mechanism through which that mandate is to be implemented. Neither interpretation is self-evidently correct, which is precisely why the dispute has generated both political controversy and legal proceedings.

The legal challenge filed before the High Court, which has issued a Rule Nisi directing explanations on the validity of the referendum and the Implementation Order, will require the courts to engage directly with these constitutional questions. The Supreme Court Observer's

analysis is instructive in its observation that the President's power to issue orders is constitutionally constrained: Article 55(6) allows the President to make rules for the allocation of government business, and Article 115 allows orders regarding appointments to the subordinate judiciary, but neither provision, nor any other in the constitution, provides explicit authority for a presidential order organizing a constitutional referendum. The claim that "sovereign popular will" derived from an uprising provides such authority is precisely the kind of extra-constitutional claim that strict constitutional jurisprudence finds most problematic.

What each of our seven subjects has said about this dispute reveals much about their theoretical orientations. Fuad's institutional analysis, as reported in his public commentary, tends toward procedural skepticism about mechanisms that bypass established constitutional procedures even when the substantive goals are worthy. His commitment to the rule of law as a system of institutional constraints rather than merely as a set of individual rights claims inclines him toward the BNP's constitutionalist position, though his reform agenda shares many of the July Charter's substantive goals. Manir's procedural orientation, expressed most clearly in his judicial independence advocacy, would lead him to insist that even popular mandates must be implemented through constitutionally valid procedures, since the alternative is to establish a precedent that popular uprisings can authorize constitutional change outside the amendment procedures, which is a precedent that could be invoked by future actors with very different agendas. Farhana's position is the most politically complex: as an independent MP who won her seat against the BNP's wishes, she has both the independence and the incentive to take positions on constitutional questions that reflect her own judgment rather than either party's organizational line.

The Factum Valet Doctrine and Its Limits

The invocation by Badiul Alam Majumdar, a member of the National Consensus Commission rather than our subject Nijhum Majumdar, of the factum valet doctrine as a response to challenges to the referendum's validity is a jurisprudentially interesting but limited argument. The doctrine, derived from Roman law and adopted into common law jurisprudence, holds that what has been done cannot be undone: completed acts, even if achieved through irregular procedures, acquire a legal validity through their completion that subsequent challenges to their procedural basis cannot entirely eliminate.

The doctrine has genuine application in private law contexts, particularly in property and contract, where stability of completed transactions requires some protection against procedural challenges that would cause disproportionate disruption. Its application in constitutional law is more contested. Constitutional provisions exist precisely to constrain the acts of powerful actors, including elected governments and popular majorities, and a doctrine that validates completed constitutional acts regardless of procedural regularity would undermine the entire constitutional order's protective function.

The specific application proposed here, that a referendum which has already taken place cannot be challenged on grounds of procedural invalidity, is particularly problematic because it would mean that any government that manages to hold a referendum, however irregular its authorization, acquires an unquestionable mandate. This is not the law of any constitutional

democracy with which the author is familiar. Courts in constitutional democracies regularly review the validity of constitutional amendment procedures, referendums, and other fundamental constitutional acts even after those acts have been completed. The German Constitutional Court's review of constitutional amendments, the Indian Supreme Court's basic structure doctrine, and the Bangladeshi Appellate Division's own practice of reviewing constitutional amendments (as in the 2011 caretaker case and its 2025 reversal) all reflect the principle that completed constitutional acts can be reviewed for procedural validity.

The more defensible version of the factum valet argument in the Bangladeshi context would be a political rather than a strictly legal claim: that the 69 percent vote in favor of constitutional reform represents a political fact of such significance that implementing reform through the regular constitutional amendment procedure (which the BNP's parliamentary supermajority makes possible without a referendum) would be the more constitutionally appropriate path, rather than attempting to unwind the referendum result. This political version of the argument is more compatible with the BNP's own stated position, which is that it remains committed to the July Charter's substantive reforms but intends to implement them through Article 142 amendment procedures rather than through the Implementation Order's extra-constitutional mechanism.

The Referendum Result and Democratic Legitimacy

The result of the February 2026 referendum, with 69 percent voting in favor of constitutional reform on a 60 percent turnout, is a significant democratic fact whatever the legal complexities of the referendum's authorization. The question of what this result means for the subsequent constitutional process requires careful analysis that separates the political significance of the vote from its legal effects.

In established constitutional democracies with specific referendum provisions, the legal effect of a referendum result is determined by those provisions. Switzerland's direct democracy constitution specifies precisely when referendum approval is required, what majority is needed, and what legal consequences follow. Ireland's constitution specifies that constitutional amendments require referendum approval by a majority of votes cast. In each case, the legal effect is clear because the constitutional framework that authorizes the referendum also defines its consequences.

Bangladesh's constitution does not contain any referendum provision of this kind. There is no article specifying that constitutional changes may be made by referendum, no article setting out what majority is required for a referendum to succeed, and no article stating that a successful referendum binds parliament or any other institution. The Implementation Order attempted to fill this gap by presidential decree, but as the Supreme Court Observer analysis establishes, the presidential power to issue such orders does not include the power to organize constitutional referendums.

The consequence is that the February 2026 referendum result is politically significant but legally uncertain in its effects. It demonstrates popular support for constitutional reform in general terms, though the specific reforms endorsed may not be fully understood by all voters in a

context where detailed constitutional questions were being put to a general electorate. It creates political pressure on the BNP government to deliver on its own stated commitments to judicial independence, bicameralism, and the other substantive elements of the July Charter. But it does not, in itself, obligate parliament to adopt any specific constitutional amendment or to convene any constitutional reform council that the constitution does not authorize.

This legal uncertainty is not, from a jurisprudential perspective, a defect to be lamented. It reflects the genuine difficulty of constitutional design in transitional societies: how to translate the transformative energy of popular uprisings into durable constitutional arrangements without either betraying the uprising's aspirations or creating constitutional precedents that undermine the stability of future legal orders. The Bangladeshi experience in 2025-2026 is a particularly vivid illustration of this difficulty, and it deserves careful theoretical attention precisely because there is no easy answer.

CHAPTER TWENTY-TWO: ARTICLE 116, THE MASDAR HOSSAIN CASE, AND THE JURISPRUDENCE OF JUDICIAL INDEPENDENCE

The Constitutional Provision and Its History

Article 116 of the Constitution of Bangladesh reads, in its current form, that the control (including the power of posting, promotion, and grant of leave) and discipline of persons employed in the judicial service and magistrates exercising judicial functions shall vest in the President and shall be exercised by him in consultation with the Supreme Court. This provision sounds like a guarantee of some judicial involvement in the management of the subordinate judiciary. But the practice under this provision, for decades, was that the President's power was exercised through the Ministry of Law, which effectively meant executive control of the subordinate judiciary with the consultation requirement reduced to a formality.

The historical development of Article 116 is itself a lesson in how constitutional provisions can be eviscerated by political practice without formal amendment. The original 1972 constitution vested control of the subordinate judiciary directly in the Supreme Court, reflecting the Westminster tradition's commitment to judicial independence. This was changed through constitutional amendments, particularly during the Ershad era, to introduce the President's role. The subsequent practice of executive-dominated administration of the subordinate judiciary, with the Ministry of Law making effective decisions about postings and promotions, institutionalized the subordination of the subordinate courts to political authority in ways that the formal constitutional text, with its requirement of Supreme Court consultation, was insufficient to prevent.

The Masdar Hossain case, formally titled Secretary, Ministry of Finance v. Masdar Hossain and others, is a 1999 Appellate Division judgment that remains the most important judicial statement on the constitutional requirements for judicial independence in Bangladesh. The case arose from a writ petition filed by judges of the subordinate judiciary challenging the executive's control over their service conditions. The Appellate Division's judgment directed the government to

separate the judiciary from the executive, to place control of subordinate court judges with the Supreme Court, and to take a series of specific measures to ensure judicial independence. These directions were encapsulated in twelve specific directives that the Appellate Division issued to the government.

The government's compliance with the Masdar Hossain directives was, to put it charitably, dilatory. Twenty-five years passed between the judgment and the Supreme Court Secretariat Ordinance of November 2025 that finally attempted to implement the judgment's core requirement of institutional separation. The Prothom Alo analysis that forms part of the research basis for this chapter captures the historical depth of this failure: the commitment to judicial independence has been recognized in Bangladeshi political discourse since at least 1921, when a resolution to this effect was adopted in the Bengal Legislative Assembly. It appeared in the 1954 Jugta Front's 21-point programme, in the 1970 Awami League election manifesto that brought Sheikh Mujibur Rahman to power, in the 1972 constitution, and in the post-1990 declarations of all three major political alliances. Twenty-five years of non-compliance with a specific Supreme Court direction, across multiple governments of different political orientations, represents one of the most striking examples of institutional inertia in the history of Bangladesh's constitutional development.

The jurisprudential significance of this inertia extends beyond Bangladesh. The gap between the formal legal articulation of judicial independence and the institutional reality of judicial practice is a phenomenon that comparative judicial politics scholars have documented across many different constitutional systems. Tom Ginsburg and Tamir Moustafa's edited volume "Rule by Law: The Politics of Courts in Authoritarian Regimes" examines the conditions under which nominally independent courts become instruments of political control, and their analysis illuminates the Bangladeshi pattern. The key mechanism is not usually direct political appointment of corrupt or compliant judges, though this can occur. More pervasively, the mechanism is the structural dependence of judges on executive decisions about their careers, including postings to desirable or undesirable locations, promotion to higher positions, and protection from disciplinary proceedings. A judge who knows that her career advancement depends on the Ministry of Law's favorable assessment of her decisions will be influenced by this knowledge, even if no explicit direction is ever given, and even if she consciously resists the influence.

This is the structural problem that the Masdar Hossain directives were intended to solve, and that the Supreme Court Secretariat Ordinance of November 2025 finally attempted to address. Manir's writ petition of August 25, 2024, filed jointly with six other Supreme Court lawyers, invoked Masdar Hossain as the primary precedent for the petitioners' claim that the continued ministerial control of the subordinate judiciary was unconstitutional. His argument was, in essence, that the government's twenty-five-year non-compliance with the Appellate Division's 1999 directives was itself a constitutional violation, and that the High Court should issue specific directions to implement those directives that prior governments had ignored.

The High Court's September 2, 2025 ruling in response to this petition directed the establishment of an independent Supreme Court secretariat and ordered the transfer of control over the subordinate judiciary from the Ministry of Law to the Supreme Court. The ruling explicitly

acknowledged the Masdar Hossain precedent and the twenty-five-year history of non-compliance. It also took the extraordinary step of examining Writ Petition No. 3936 of 2025, in which the High Court Division acknowledged "defects in how the constitutional appointment scheme has worked in practice, noting concerns about non-merit based appointments and the resulting damage to the judiciary's image." This observation connected the abstract question of judicial independence to the concrete reality of how judicial appointments had functioned in practice, providing an empirical grounding for the constitutional argument that the formal text's consultation requirement had become an empty formality.

The Repeal of the Ordinance: Constitutional Regression or Legal Correction?

The BNP government's introduction of bills to repeal the Supreme Court Secretariat Ordinance and the Supreme Court Judges Appointment Ordinance represents, as this textbook has previously noted, one of the most significant tests of whether the post-August transition has changed the logic of power or merely its occupants. The constitutional arguments made by the government in support of repeal deserve examination both on their own terms and against the theoretical background of judicial independence scholarship.

The Law Minister's argument that the judges' appointment ordinance "conflicted with the Constitution" is a genuinely interesting constitutional claim that requires examination. The appointment of Supreme Court judges is governed by Article 95 of the constitution, which provides that the President shall appoint the Chief Justice and shall appoint the other judges after consultation with the Chief Justice. The Supreme Court Judges Appointment Ordinance 2025 established a more structured mechanism for judicial appointments, involving a council-based process intended to reduce the informal political influence that had historically shaped appointments. The government's argument is that this structured mechanism conflicted with Article 95's simpler consultation requirement.

This argument has both a surface plausibility and a deeper weakness. The surface plausibility is that Article 95 assigns the appointment power to the President, and a statutory mechanism that limits the President's discretion could be read as modifying the constitutional scheme in a way that requires constitutional amendment rather than mere legislation. But the deeper weakness is that constitutional provisions specifying appointment procedures do not necessarily prohibit parliamentary legislation that structures how those procedures are carried out, as long as the legislation does not eliminate the constitutional decision-maker's ultimate authority. The consultation requirement of Article 95 would be satisfied under the Ordinance's mechanism, since the Chief Justice would be involved in the council-based process. The Ordinance's additional requirements of transparency, specific qualifications criteria, and conflict-of-interest safeguards do not eliminate the President's appointment power but add procedural constraints on its exercise that are well within parliament's legislative competence.

The argument regarding the Supreme Court Secretariat ordinance is similarly two-sided. The government's report, as the Prothom Alo analysis reveals, noted that under the current system there exists a "check and balance" between the government and the judiciary, implying that the ordinance's transfer of control to the Supreme Court would eliminate a desirable governmental check on the judiciary. This is a politically convenient framing of what is essentially an argument

against the implementation of the Masdar Hossain directives, which the Supreme Court itself issued as constitutional requirements. Characterizing executive oversight of the judiciary as a "check and balance" rather than as a form of executive capture reveals the ideological assumptions embedded in what presents itself as a neutral constitutional argument.

The deeper theoretical question the repeal controversy raises is one that constitutional scholars have long debated: the question of judicial self-dealing. Is it appropriate for the Supreme Court to issue orders requiring institutional arrangements that expand the Supreme Court's own institutional power and autonomy? Critics of the Masdar Hossain line of decisions have occasionally raised this objection, arguing that courts expanding their own powers under the rubric of judicial independence are engaging in a form of self-interested institutional aggrandizement that the separation of powers principle should constrain. Supporters of judicial independence respond that this objection gets the institutional logic precisely backwards: the Supreme Court's directives in Masdar Hossain were not expanding the Court's power for institutional self-interest but implementing the constitutional design, which assigned control of the subordinate judiciary to the Supreme Court for good reason, against a political culture that had systematically subverted that design.

Manir's response to the repeal, calling for black-badge protests by the legal community, reflects the view that the Supreme Court's directives in Masdar Hossain are not merely self-interested institutional preferences but are genuine constitutional requirements that the legal profession has an institutional obligation to defend. This response also invokes what might be called the "republican" theory of judicial independence developed by Philip Pettit: the idea that judicial independence is not merely a technical institutional requirement but a constitutive element of a legal order committed to freedom as non-domination, the freedom of citizens from the arbitrary power of those who govern them. An independent judiciary is the primary institutional mechanism through which citizens can seek protection from arbitrary executive action, and a judiciary that is dependent on executive patronage for its career prospects cannot effectively perform this function.

The Masdar Hossain Directives: A Technical Legal Analysis

The twelve directives that the Appellate Division issued in Masdar Hossain have been the subject of enormous subsequent commentary and litigation, and their specific content deserves examination in some detail because it reveals both the scope of the constitutional problem they addressed and the depth of the government's non-compliance. Among the most important directives were: the requirement that the terms and conditions of service of members of the judicial service and magistrates exercising judicial functions be regulated by rules made in consultation with the Supreme Court rather than by executive order alone; the requirement that the control of postings, promotions, grants of leave, and discipline of these persons vest in the Supreme Court rather than in the executive; and the requirement that a separate secretariat be established for the Supreme Court with the Supreme Court itself having control over its own administrative functions.

These directives, taken together, amount to a constitutionally mandated institutional redesign of the relationship between the executive and the subordinate judiciary. They do not merely require

procedural changes to existing arrangements but a fundamental reallocation of institutional authority from the Ministry of Law to the Supreme Court. The government's response, over the twenty-five years between 1999 and 2024, was to acknowledge the directives formally, to make occasional partial gestures toward implementation, and to defer complete compliance while maintaining effective ministerial control of the subordinate judiciary. This pattern of formal acknowledgment combined with practical non-compliance is one of the most common responses of governments to adverse court judgments in Bangladesh and reflects a broader problem of enforcement that comparative constitutional scholarship identifies as one of the central challenges facing courts in developing democracies.

Tom Ginsburg's "Judicial Review in New Democracies" examines the conditions under which courts are able to enforce their decisions against resistant governments, finding that judicial power to enforce decisions depends on the combination of judicial independence from the government, public support for the court's authority, and the availability of mechanisms that allow courts to hold governments accountable for non-compliance. In Bangladesh, the first condition has historically been compromised by exactly the kind of structural judicial dependence that Masdar Hossain was intended to remedy. The second condition has been variable: some Supreme Court decisions have commanded substantial public support, while others, including some in politically charged contexts, have been seen as politically motivated. The third condition, the availability of enforcement mechanisms, is particularly weak, since contempt of court proceedings against government officials are extraordinarily rare and have not historically been a significant enforcement tool.

The Supreme Court Secretariat Ordinance of 2025 attempted to solve the enforcement problem by creating a self-executing institutional arrangement: rather than relying on government compliance with a judicial directive, the Ordinance established the secretariat as a legal entity with its own budget, staff, and operational independence, making its future elimination require positive legislative action rather than mere administrative inaction. The repeal of the Ordinance reversed this solution, returning to the situation where the government's compliance with Masdar Hossain depended on executive willingness to implement directives that the executive had demonstrated, over twenty-five years, it was not willing to implement without external compulsion.

The Daily Star's analysis is exactly right in observing that when a Supreme Court says a previous constitutional judgment may have been bent by politics, parliament cannot honestly say that proper judicial reform is not crucial. The Appellate Division's acknowledgment in its March 2026 full judgment that the 2011 caretaker case may have buckled under legislative pressure is not merely a critique of a past judgment but an implicit acknowledgment that the structural conditions that produced that pressure remain present, and that only genuine institutional reform can change them.

CHAPTER TWENTY-THREE: THE ICT JURISPRUDENCE IN DETAIL

Crimes Against Humanity: Doctrinal Elements and Their Application

The Legal Framework: ICT Act, Rome Statute, and Customary International Law

The International Crimes (Tribunals) Act of 1973, as amended in subsequent years, is a domestic statute that draws on but does not entirely reproduce the framework of international criminal law as it had developed by the time of the act's original passage. Its provisions regarding crimes against humanity, war crimes, and genocide draw on the 1945 Nuremberg Charter, the 1948 Genocide Convention, and the customary international law that had developed through the Nuremberg and Tokyo trials. The intervening fifty years between the act's passage and the 2024 events that are now being prosecuted before the Tribunal have seen dramatic development in the international criminal law framework, including the establishment of the ICTY, the ICTR, the ICC, and the development of an extensive jurisprudence on the precise elements of international crimes.

The question of which body of law governs the ICT's current proceedings is itself contested. The Tribunal operates under the 1973 Act, as amended, which predates the Rome Statute of 1998 and the extensive ICTY and ICTR jurisprudence. But Bangladeshi courts, including the Supreme Court and the ICT itself, have shown willingness in past proceedings to draw on international developments in interpreting the Act's provisions. The extent to which the Tribunal can and should import the more developed jurisprudence of the Rome Statute and the ad hoc tribunals into its interpretation of the 1973 Act's provisions is one of the central jurisprudential questions of the current proceedings.

The Rome Statute's definition of crimes against humanity under Article 7 requires: a widespread or systematic attack directed against any civilian population; acts forming part of such attack, including murder, extermination, deportation, imprisonment, torture, rape, persecution, enforced disappearance, apartheid, and other inhumane acts of a similar character; and commission with knowledge of the attack. The element of "widespread or systematic" is understood in the Rome Statute's Elements of Crimes as a disjunctive standard: either the attack must be widespread (indicating a large-scale character) or systematic (indicating a high degree of organization following a regular pattern), or both. An attack does not need to satisfy both criteria.

The application of these elements to the events of July-August 2024 in Bangladesh presents both straightforward and complex aspects. The coordination of security forces, including police, the Rapid Action Battalion, border guards, and apparently some military units, across multiple locations throughout the country clearly satisfies the "systematic" criterion if the underlying factual allegations are proved. The killing of over 800 and possibly as many as 1,400 people clearly satisfies the "widespread" criterion in terms of geographic distribution and number of victims. The deployment of what witnesses describe as sniper fire, shooting in the face at close range, and the specific targeting of protest organizers satisfies the "directed against any civilian population" element, since the victims were overwhelmingly civilians engaged in or supporting the protests rather than armed combatants.

The more complex elements concern the mental element and the command responsibility questions. The prosecution of Hasina as the "principal accused" requires establishing either that she directly ordered the killings (individual perpetration), that she participated in a common plan that included killings as means or foreseeable consequences (joint criminal enterprise), or that

she knew or should have known of the killings committed by subordinates and failed to prevent or punish them (command responsibility). The ICTY's elaboration of these doctrines, particularly in the Tadic, Blaskic, and Krstic cases, provides the most developed available framework for analyzing these questions.

Joint criminal enterprise (JCE) liability, developed by the ICTY Appeals Chamber in Tadic, distinguishes three forms: basic JCE, where all co-perpetrators share the same criminal intent; extended JCE, where a participant in a common plan is responsible for crimes committed by other participants if those crimes were foreseeable consequences of the plan; and systemic JCE, applicable specifically to concentration camp cases where the systematic nature of the enterprise creates a presumption of shared intent for all participants. In the Bangladeshi context, the prosecution appears to be using elements of all three forms, alleging that the order to deploy lethal force against protesters was part of a common plan shared by Hasina and members of her government, that the systematic nature of the operation makes foreseeable the killings that occurred, and that the organization of the security forces under unified command creates presumptive shared intent for the violence.

The witness testimony reported in Part Two, to the effect that Hasina ordered hospital authorities to deny treatment to injured protesters, would, if believed, constitute evidence relevant to the "direct ordering" theory that might support basic JCE liability or even individual perpetration for specific deaths that resulted from treatment denial. The command responsibility doctrine, codified in Article 28 of the Rome Statute, would apply even without specific orders if the prosecution can establish that Hasina, as commander-in-chief of the armed forces and political head of the government, knew or should have known of the killings and took no effective measures to prevent them or punish those responsible.

The Contempt Conviction: "Licence to Kill" and Scandalizing the Court

The conviction of Hasina for contempt of court on July 2, 2025, arising from the "licence to kill" audio recording, deserves more detailed analysis than Part Two provided, both as a matter of doctrine and as a matter of institutional strategy. As a matter of doctrine, the contempt conviction raised three distinct questions: whether the statement was made in the terms alleged; whether, if made, it constituted contempt of court; and whether contempt in absentia under the applicable procedural rules was valid.

The audio recording's authenticity is a factual question on which this textbook cannot make definitive findings, but it is a matter of basic evidential principle that authenticity should be established through technical evidence, including voice analysis and metadata, before the recording is relied upon in any proceedings. The contempt proceedings appear to have moved with some speed, which creates at least a concern that the factual foundation was established less rigorously than the gravity of a contempt conviction requires.

On the substantive question of whether the alleged statement constitutes contempt, the analysis in Part Two identified the relevant common law standard as requiring real interference with the administration of justice rather than mere criticism of a court or its decisions. The Privy Council's McLeod v. St. Aubyn standard, and the subsequent development of the "scandalizing

the court" doctrine in English and Commonwealth jurisprudence, requires a showing that the statement is calculated to undermine public confidence in the administration of justice in a way that goes beyond legitimate, however sharp, criticism of judicial decisions.

The alleged statement that the speaker had "a licence to kill" because she had faced 227 legal cases in the past is ambiguous in ways that the contempt conviction does not appear to have fully addressed. The statement could be read as a claim that the speaker believed herself to be above the law because of her political experience, which would be an expression of authoritarian mentality but not necessarily an interference with ongoing court proceedings. It could also be read as dark irony about the proliferation of politically motivated cases rather than as a genuine assertion of immunity from prosecution. The interpretation that the court adopted, that the statement was "a direct affront to the integrity of the court," requires reading the statement as a specific challenge to the ICT's authority, which requires additional inferential steps from the actual words as alleged.

The more fundamental institutional concern is the one raised in Part Two: a court conducting proceedings for crimes against humanity is sufficiently powerful a platform for accountability that contempt proceedings for statements made about the court's proceedings add a layer of complexity that may not serve the long-term goal of establishing the proceedings' legitimacy. Courts in other high-profile international criminal cases, including the ICTY proceedings against Slobodan Milosevic and the ICC proceedings against Uhuru Kenyatta, have shown considerable restraint in contempt proceedings, recognizing that the legitimacy of the proceedings depends on their appearance of fairness rather than on the court's invocation of its authority against the accused.

Majumdar's scholarly background in international criminal law would, if he addressed the contempt conviction in his academic work, require him to engage with these arguments. The fact that the accused is a figure from his own political tradition, and that the proceedings themselves are connected to allegations against figures also from that tradition (including the murder case in which he is named as an accused), creates personal complications that would test the most disciplined academic independence. The intellectual challenge of applying one's own theoretical frameworks to a situation in which one has a personal stake is precisely the kind of test that distinguishes genuine scholars from advocates who use scholarly vocabulary for political purposes.

Command Responsibility and the Helms-Burton Problem

The command responsibility doctrine in international criminal law has developed through a tension between two competing principles that scholars have identified as creating what might be called the Helms-Burton problem (named not after the American legislation but as a shorthand for the conceptual problem that arose in several high-level international criminal cases involving political rather than military command). The problem is this: command responsibility, as articulated in the Blaskic line of cases, requires a genuine superior-subordinate relationship, meaning a chain of command in which the superior has effective control over the subordinate's actions and can prevent or punish crimes. In military contexts, this chain of command is relatively clear. In political contexts, where the political head of government exercises authority

over security forces through administrative and budgetary channels rather than through direct operational command, the precise nature of the superior-subordinate relationship is more complex.

The ICC's judgment in the Bemba case (2016), which was subsequently overturned on appeal on different grounds, applied command responsibility to a non-military political superior in ways that required careful analysis of the actual relationship between Bemba as leader of the Movement for the Liberation of Congo and the MLC soldiers whose crimes were at issue. The Appeals Chamber's eventual acquittal in 2018, which found that the Trial Chamber had applied an incorrect standard for command responsibility, illustrates the genuine doctrinal difficulty of the doctrine when applied at the highest levels of political command.

The Bangladeshi ICT proceedings will face analogous questions about the precise nature of Hasina's command over the security forces that killed protesters. Bangladesh's constitutional structure, under the 1972 constitution, designates the President as the Supreme Commander of the Defense Services, but executive power is vested in the Prime Minister who is responsible to parliament. The operational command of security forces, including the police, RAB, and border guards, flows through a complex administrative structure involving the Ministry of Home Affairs, the Ministry of Defense, and other ministerial structures. The question of where effective control lay, and what level of knowledge Hasina had of the specific operational decisions that led to specific killings, is both a factual and a legal question that the ICT's proceedings must address with precision.

None of our seven subjects has addressed the command responsibility doctrine in its full technical detail in publicly available statements, though Majumdar's academic work, if it addresses this doctrine, may provide the most technically informed analysis. The gap between the sophisticated international criminal law framework and the public discourse about the ICT proceedings, which tends to treat accountability as a straightforward matter of political justice rather than as a technically demanding legal enterprise, is one of the places where the legal expertise of figures like Majumdar, Manir, and Fuad is most needed and most underdeployed.

The In Absentia Problem and International Standards

The decision to proceed with the ICT trial in Hasina's physical absence raises questions that international criminal law has addressed in specific ways. The Rome Statute, which represents the current international consensus on international criminal procedure, does not permit trials in absentia: Article 63 requires the presence of the accused at trial. The ICTY and ICTR also required accused presence during trial proceedings. These requirements reflect the view that the legitimacy of serious criminal proceedings, and the reliability of their outcomes, depends on the accused's ability to participate fully in the proceedings, including by challenging evidence, cross-examining witnesses, and presenting a defense.

The 1973 ICT Act does not follow the Rome Statute's approach. Bangladesh is not a party to the Rome Statute, and the ICT is a domestic rather than an international tribunal. The domestic law basis for in absentia proceedings is therefore a matter of Bangladeshi law rather than international law, though international standards remain relevant as guidelines for assessing the

legitimacy of the proceedings. The applicable Bangladeshi criminal procedure provides mechanisms for trials in absentia in cases where accused persons have absconded, and the government has applied for Hasina's extradition from India without success.

The extradition failure is itself legally significant. India's refusal to extradite Hasina, under whatever specific grounds it has articulated (the reasons have not been fully publicly disclosed, to the author's knowledge), means that the ICT is proceeding against an accused person who is in another country and who has not been formally surrendered to Bangladeshi jurisdiction. International extradition law, embodied in bilateral treaties and multilateral conventions, requires that extradition requests meet specific conditions regarding dual criminality (the conduct must be criminal in both the requesting and the requested state), political offense exceptions, and human rights considerations. If India has declined extradition on human rights grounds, including concerns about fair trial guarantees in the ICT proceedings, that refusal is itself a significant external assessment of the proceedings' legitimacy.

The requirement of fair trial, including specifically the right of an accused to confront the evidence against her and to cross-examine witnesses, is a fundamental principle of the ICCPR to which Bangladesh is a party. Article 14(3)(e) of the ICCPR guarantees the accused the right "to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him." Representation by lawyers in Dhaka on behalf of an accused in India does not fully substitute for the accused's own presence, particularly where the accused's direct testimony about her own state of mind during the relevant events would be material evidence.

These are not arguments that accountability for the 2024 killings should not be pursued. They are arguments that the manner in which accountability is pursued affects the legitimacy of the accountability process itself, and that legitimacy concerns deserve to be taken seriously even by those who are most committed to comprehensive accountability for the killings. Manir's procedural orientation, which sometimes frustrates those who prioritize substantive justice, reflects an understanding that this distinction matters for the long-term development of Bangladesh's legal culture.

CHAPTER TWENTY-FOUR: FREEDOM OF EXPRESSION: THE DSA, CSA, AND THEIR CONSTITUTIONAL CHALLENGE

The Legal Architecture of Speech Control: A Detailed Examination

Part Two's examination of the Digital Security Act and its successor the Cyber Security Act provided an overview of their effects on the careers of our seven subjects. Part Three's goal is to examine the specific constitutional provisions that should have prohibited these Acts, the specific cases in which those provisions were tested in court, and the theoretical framework that evaluates both the Acts themselves and the courts' handling of challenges to them.

Article 39 of the Bangladesh constitution guarantees freedom of thought and conscience, freedom of speech, and freedom of the press, subject to "reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence." This provision has the standard structure of a qualified constitutional right: an absolute core supplemented by an enumerated list of permissible restrictions, each of which is subject to the overriding requirement that any restriction must be "reasonable."

The reasonableness requirement in Article 39 is both the key to the provision's protective power and the source of its vulnerability. In a constitutional system with genuinely independent courts committed to rigorous rights adjudication, the reasonableness requirement functions as a demanding filter: restrictions on speech are presumed to be unreasonable unless the government can demonstrate specific justification, and that justification must be proportionate to the harm the restriction addresses. In a constitutional system where courts are structurally dependent on the executive and where the political culture treats national security and religious sentiment as near-absolute values, the reasonableness requirement can be read so permissively as to permit virtually any restriction that the government frames in the right language.

Bangladesh's experience with the Article 39 reasonableness requirement illustrates the worst version of this dynamic. The DSA's section 28, which prohibited online content that "deteriorates law and order, prejudices the image of the state or person or hurts religious feelings or incites against any person or organization," clearly failed the test of proportionality by any standard of meaningful rights adjudication. The categories of prohibited speech went far beyond any legitimate governmental interest: protecting the "image of the state or person" from online criticism is not a legitimate restriction in a democratic society, where criticism of the government and of public officials is core protected speech. Protecting "religious feelings" from being "hurt" is not among the permissible restriction categories listed in Article 39; the closest enumerated category is "decency or morality," which in international rights jurisprudence has a specific meaning related to sexual and obscene content rather than religious sensitivity.

The challenges to the DSA in court were largely unsuccessful during the Hasina period, for reasons that the Masdar Hossain analysis makes entirely predictable: courts whose judges owe their career prospects to executive patronage are structurally ill-equipped to strike down legislation that the executive endorses. The post-August period created new conditions for constitutional adjudication, and the new government's repeal of the DSA reflected both genuine commitment to expression freedom and the political advantage of removing a tool that had been most visibly used against opposition voices.

The Cyber Security Act of 2023, which replaced the DSA while maintaining many of its substantive restrictions, represents a more sophisticated legislative response to the expression freedom problem. Its procedural modifications, including requirements for police compliance with specific procedures before arresting DSA suspects and a reduction in some of the most extreme penalty provisions, addressed some of the most visible procedural abuses of the DSA without altering the fundamental framework of criminal liability for online expression that the government finds inconvenient. The post-August question of whether the CSA has been substantively reformed or merely cosmetically modified is one that bears on the freedom of

expression of all seven of our subjects, several of whom continue to make public commentary that could attract attention under a broadly interpreted CSA.

The International Covenant on Civil and Political Rights and Bangladesh's Obligations

Bangladesh ratified the ICCPR in 1998, becoming bound by its provisions including Article 19, which guarantees freedom of expression, and which the Human Rights Committee's General Comment 34, issued in 2011, has interpreted with considerable specificity. The General Comment's three-part test, which this textbook has previously invoked, requires that restrictions on expression must be provided by law with sufficient clarity to enable individuals to foresee whether their conduct is covered; must serve one of the specifically enumerated legitimate aims listed in Article 19(3); and must be necessary and proportionate to achieving those aims, meaning that less restrictive alternatives must not be available.

The application of this test to the DSA's provisions reveals their systematic incompatibility with Bangladesh's ICCPR obligations. The vagueness of provisions prohibiting speech that "hurts religious feelings" fails the "provided by law" clarity requirement, since reasonable people cannot predict from this formulation what specific statements will attract prosecution. The "prejudices the image of the state or person" prohibition does not fall within any of the enumerated legitimate aims, since protecting the "image" of the state or of public officials from criticism is not equivalent to the enumerated categories of national security, public order, public health, public morals, or the rights of others. The criminal penalties of up to 14 years' imprisonment for some DSA offenses fail the proportionality test, since imprisonment is the most severe sanction available in a democratic legal system and its use for expression offenses that cause no concrete harm to identifiable victims is grossly disproportionate to any legitimate regulatory aim.

The Human Rights Committee's concluding observations on Bangladesh's periodic reports under the ICCPR have consistently raised concerns about the DSA, and its predecessor legislation, as incompatible with ICCPR standards. These observations are not legally binding in the same way as a court judgment, but they represent the authoritative interpretation of Bangladesh's treaty obligations by the body established by the treaty for this purpose, and Bangladesh's repeated failure to implement them represents a continuing violation of its international legal commitments.

The specific relevance of this international legal framework to our seven subjects is clearest in the cases where DSA proceedings were used against their colleagues, allies, or themselves. The defamation case filed against Suman by the Awami League MP cited in Part Two, though technically a civil rather than a criminal DSA case, reflects the same legislative culture of using legal proceedings to silence critical commentary. Farhana's use of parliamentary privilege to make statements that would have been legally risky outside the parliament was a practical acknowledgment that Article 39's protections, as implemented through the DSA/CSA framework, were insufficient to protect the kind of political commentary that a functioning opposition requires.

Manir's representation of defendants facing DSA-related charges, and his own experience as the subject of a religious sentiment complaint arising from his Roza-Puja comparison, positions him as both a practitioner within the expression freedom jurisprudence and a subject of its application. The philosophical significance of his continued public statement-making after the complaint was filed, including statements that might again attract complaint under the CSA's religious sentiment provisions, reflects either a principled commitment to expression freedom as a constitutional value or a calculation that his public profile provides sufficient protection against prosecution, or both.

Proportionality as a Constitutional Doctrine: Recent Theoretical Developments

The proportionality doctrine, through which courts in constitutional democracies assess the justification for restrictions on constitutional rights, has undergone significant theoretical development since 2020. Moshe Cohen-Eliya and Iddo Porat's "Proportionality and Constitutional Culture" provides a comparative analysis that situates proportionality as a doctrine that emerged from German administrative law and has spread to constitutional systems worldwide, including through the influence of the ECHR and the expanding comparative constitutional dialogue among apex courts. Their analysis identifies both the strengths of proportionality as a constitutional methodology, its transparency, its comprehensiveness in requiring consideration of alternatives, and its capacity to balance competing values, and its limitations, including the risk of judicial substitution of court preferences for legislative judgments on contested empirical and value questions.

The application of proportionality to Bangladeshi rights adjudication requires awareness of both dimensions. On the one hand, a proportionality-based analysis would significantly improve the quality of constitutional adjudication on expression freedom, since it would require the government to demonstrate specific evidence that the restrictions it imposes on expression serve the enumerated constitutional aims, that less restrictive alternatives are unavailable, and that the benefits of the restriction outweigh its costs in terms of the democratic discourse that expression freedom protects. On the other hand, proportionality analysis in a legal culture that lacks judicial independence from the executive is easily manipulated: courts that defer to the government's characterization of security threats, or that accept implausible claims about the concrete harm caused by critical expression, can use the proportionality framework to reach conclusions indistinguishable from those of a legal culture with no rights protection at all.

The post-August Bangladesh court system, freed from the structural dependence on executive patronage that characterized the Hasina-era judiciary (at least for the period before the repeal of the Judges Appointment Ordinance raises new concerns about future judicial appointments), offers a window of opportunity for developing a more rigorous proportionality-based rights jurisprudence. Whether that opportunity is taken will depend partly on the institutional reforms to judicial administration, partly on the professional culture of the bar in presenting sophisticated rights arguments, and partly on the intellectual culture of the judiciary in being open to developing a principled constitutional jurisprudence rather than defaulting to deference to the executive's legislative judgments.

CHAPTER TWENTY-FIVE: FUNDAMENTAL RIGHTS ADJUDICATION IN THE POST-AUGUST COURTS

The Writ Jurisdiction and Its Expansion

The writ jurisdiction of the High Court Division under Article 102 of the constitution is the primary mechanism through which the courts enforce fundamental rights against the government. Article 102 empowers the High Court Division to issue directions in the nature of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, and more broadly to order any person performing functions in connection with public affairs to refrain from doing what that person is not permitted to do by law, or to do what that person is required to do by law. This jurisdiction, derived from the English prerogative writs, has been the vehicle for most of the significant public law litigation in Bangladesh including the Masdar Hossain case, the Jamaat-e-Islami registration case, and the numerous PIL cases in which Suman and others have participated.

The expansion of public interest litigation (PIL) as a mode of rights enforcement in Bangladesh has followed a trajectory broadly similar to its development in India, from which much of the inspiration and doctrinal framework derives. The Indian Supreme Court's development of PIL in the 1970s and 1980s, associated with judges like Justice P.N. Bhagwati and Justice V.R. Krishna Iyer, was explicitly motivated by the recognition that conventional locus standi requirements (requiring the petitioner to demonstrate direct personal injury) systematically excluded the poor and marginalized from judicial enforcement of their constitutional rights. By relaxing locus standi requirements, allowing representative organizations and even letters from concerned citizens to trigger writ proceedings, and by developing innovative remedies including continuing mandamus (in which the court retains jurisdiction to supervise compliance with its orders), the Indian Supreme Court transformed PIL into a major instrument of constitutional governance.

Bangladesh's PIL jurisprudence has developed somewhat differently, constrained by a more deferential judicial culture during the Hasina years and by the structural dependence issues identified in the Masdar Hossain analysis. But significant PIL decisions have been made, and the post-August courts appear to be developing a more expansive approach that takes fundamental rights claims more seriously than their predecessors did in politically sensitive cases.

The specific PIL activity of Suman, before his arrest, is the most direct illustration among our seven subjects of how the writ jurisdiction functions as a constitutional tool. His petitions relating to the S. Alam Group's financial activities, invoking the court's supervisory jurisdiction to initiate regulatory scrutiny, drew on the PIL tradition's expansion of judicial access to allow concerned citizens to seek enforcement of public law requirements even without specific personal injury. The constitutional basis for this kind of petition is found in the combination of Article 102's broad writ jurisdiction and the Supreme Court's development, following Indian precedent, of a relatively liberal locus standi doctrine.

The limitations of PIL as an accountability mechanism are also visible in Suman's experience. The S. Alam petition, filed during the Hasina government, faced the fundamental obstacle that the executive branch was not merely indifferent to the financial crimes being alleged but was

itself connected through patronage networks to the very financial actors being challenged. A court that is structurally dependent on that executive cannot effectively use PIL to enforce accountability on matters where enforcement would embarrass the government. PIL is most effective as an accountability tool when it operates in a context of genuine judicial independence, when the government lacks both the will and the capacity to prevent judicial scrutiny of its own agents and allies.

The Constitutional Right to Life and Its Implications

The most fundamental constitutional right at stake in the July-August 2024 events is the right to life protected by Article 31 and Article 32 of the Bangladesh constitution. Article 31 guarantees that no action detrimental to the life, liberty, body, reputation, or property of any person shall be taken except in accordance with law. Article 32 provides that no person shall be deprived of life or personal liberty save in accordance with law. These provisions, read together, create a constitutional prohibition on arbitrary killing by the state, and the systematic killing of approximately 800 to 1,400 unarmed civilian protesters by security forces acting under government orders represents the most serious violation of these rights in Bangladesh's post-independence history.

The jurisprudential development of the right to life in the comparative constitutional tradition is relevant to the ICT proceedings because it establishes the constitutional context within which the criminal accountability proceedings are situated. The right to life in international human rights law, as protected by Article 6 of the ICCPR, requires not merely that states refrain from arbitrary killing but that they investigate, prosecute, and punish those responsible for arbitrary killings by state agents. The Human Rights Committee's General Comment 36 on the right to life, issued in 2018, articulates this obligation with great specificity, noting that states are required to investigate killings by their agents "promptly, thoroughly, and impartially through independent and impartial bodies," to prosecute those responsible, and to provide effective remedies to the victims and their families.

The ICT proceedings against Hasina and other Awami League officials are, from this perspective, not merely an exercise of political justice but a compliance with Bangladesh's specific international legal obligations under the ICCPR. The state's obligation to investigate and prosecute arbitrary killings by security forces does not depend on the political consequences of that prosecution or on the identity of those responsible. It flows directly from the right to life as a binding legal obligation. This is a point that both critics of the proceedings (who emphasize due process concerns) and supporters (who emphasize political accountability) sometimes miss: the obligation is legal, not merely political, and the debate should therefore be about how to fulfill it properly rather than whether to fulfill it at all.

The specific victims of the July-August 2024 killings, including Abu Sayed whose death was captured on video as he stood with arms outstretched in non-violent defiance, represent both the individual right to life in its most concrete form and the collective constitutional dimension of a state's obligation to respect its citizens' lives. The iconic image of Abu Sayed's defiant stance and subsequent shooting has become the moral center of gravity for the entire accountability process, precisely because it captures, with terrible clarity, the moment when a state that had lost its

constitutional legitimacy expressed that loss in the most direct way available to it: by killing an unarmed young man who was asking for nothing more than accountability and fairness.

Administrative Law and the Doctrine of Legitimate Expectation

The post-August period has also seen significant development of administrative law doctrines, including the doctrine of legitimate expectation, in ways that affect several of our seven subjects. The doctrine of legitimate expectation, derived from English administrative law and recognized in the Bangladesh constitution's due process provisions, holds that where a public authority has made a representation, through a policy, a promise, or a consistent past practice, that it will act in a certain way, persons who have relied on that representation have a legitimate expectation that the authority will fulfill it, and that departing from it without adequate justification and procedural fairness violates the principles of good administration.

The doctrine is relevant to several of the institutional disputes examined in this textbook. The government's reversal of the Supreme Court Secretariat Ordinance, which had already been inaugurated and had begun operations, could be analyzed through the lens of legitimate expectation: institutions and individuals who had structured their conduct in reliance on the Ordinance's continued operation had a legitimate expectation that it would be maintained, and the abrupt reversal without adequate consultation or justification may have violated that expectation. Similarly, the BNP's reversal of its own prior commitments to judicial independence, which were clearly articulated in its 31-point reform agenda and election manifesto, creates a legitimate expectation among those who voted for BNP on the basis of those commitments that the party would fulfill them.

The enforcement of legitimate expectations against governments through legal proceedings is more challenging in the institutional context than in the individual context: it is easier for a court to enforce the legitimate expectation of an individual who has changed their position in reliance on a government representation than to enforce institutional expectations about constitutional design. But the doctrine's broader significance is as a principle of democratic accountability: governments that make specific commitments to reform and then reverse those commitments expose themselves to the charge of bad faith governance that the legitimate expectation doctrine names and condemns.

CHAPTER TWENTY-SIX: PARLIAMENTARY SOVEREIGNTY VERSUS CONSTITUTIONAL SUPREMACY

The Foundational Debate and Its Bangladeshi Manifestation

The tension between parliamentary sovereignty and constitutional supremacy is one of the oldest and most profound debates in constitutional law. The English constitutional tradition, in which parliament is theoretically omnipotent and no court can declare an act of parliament void, represents the pole of parliamentary sovereignty. The American constitutional tradition, in which the constitution is superior law and courts can strike down acts of congress that violate it,

represents the pole of constitutional supremacy. Most modern constitutional democracies, including Bangladesh, operate somewhere in between, combining formal constitutional supremacy with varying degrees of parliamentary authority that courts must respect.

Bangladesh's constitutional design creates a formal commitment to constitutional supremacy through Article 7, which provides that the constitution is the supreme law of the republic and that any law inconsistent with the constitution shall be void to the extent of the inconsistency. This provision appears to establish clearly that the constitution overrides parliament. But Bangladesh's constitutional practice has been considerably more complicated, because the same constitution also provides, in Article 142, for a constitutional amendment procedure that allows parliament to change virtually any provision of the constitution (the Supreme Court's basic structure doctrine, which is discussed below, is the primary exception) through a two-thirds majority vote.

This combination of formal constitutional supremacy with broad parliamentary amendment power creates a constitutional system in which parliamentary sovereignty is constrained but not eliminated by the constitution, and in which the constraint can itself be removed through the constitutional amendment procedure if a sufficiently large parliamentary majority decides to do so. The Fifteenth Amendment's abolition of the caretaker system in 2011, achieved through a two-thirds majority in a parliament where the Awami League had won an overwhelming majority in the 2008 elections, illustrates this dynamic: a constitutional provision was removed through a formally legitimate constitutional amendment procedure, even though the specific provision removed was one whose purpose was precisely to prevent the governing party from manipulating the electoral process to perpetuate its own power.

The Appellate Division's November 2025 decision reinstating the Thirteenth Amendment, reversing the 2011 decision that had struck down the caretaker system, adds a new dimension to this dynamic. The Court's ruling was that the 2011 Appellate Division decision was wrong as a matter of constitutional law, that the Thirteenth Amendment was a valid constitutional provision that could not be struck down by the courts, and that the Fifteenth Amendment's abolition of the caretaker system was therefore a constitutional change that the Court's 2011 decision had impermissibly facilitated. The full judgment's language about the "judicial murder of democracy" and about the 2011 court "buckling under legislative pressure" represents an extraordinary instance of the Supreme Court's acknowledging its own prior political failure and attempting to correct it.

The theoretical framework that makes sense of this ruling is the basic structure doctrine, developed most fully by the Indian Supreme Court in its 1973 Kesavananda Bharati judgment. The basic structure doctrine holds that while the constitution can be amended by parliament through the prescribed procedures, certain fundamental features of the constitution, the basic structure, are beyond the reach of the amendment power. The parliament can modify but cannot destroy the basic structure. In Kesavananda Bharati, the Indian Supreme Court identified features including the supremacy of the constitution, the republican and democratic form of government, the secular character of the constitution, and the separation of powers as elements of the basic structure that parliament cannot amend away.

Bangladesh's Supreme Court has recognized a basic structure doctrine in its own jurisprudence, identifying democracy, the rule of law, fundamental rights, and judicial independence as among the basic structure's elements. The question of whether the caretaker system is part of the basic structure, such that even a two-thirds parliamentary majority cannot abolish it, is one on which the Appellate Division's 2011 and 2025 decisions have taken opposite views. The 2025 decision, in effect, found that the caretaker system as implemented through the Thirteenth Amendment was sufficiently connected to the basic structure of democratic governance that the Fifteenth Amendment's abolition of it, even through constitutionally prescribed amendment procedures, could not be sustained.

This is a genuinely remarkable constitutional holding. It represents the Supreme Court's assertion that certain constitutional protections for democratic governance are beyond the reach of even a supermajority parliament, not because those protections are expressly identified as unamendable but because they are necessary conditions for the democratic form of government that is itself part of the basic structure. The theoretical justification for this position draws on the idea, articulated by constitutional scholars including Yaniv Roznai in his 2017 "Unconstitutional Constitutional Amendments," that the amendment power is not unlimited but is bounded by the constitutional identity of the document it is amending. An amendment that destroys the conditions for its own legitimate exercise, the democratic process through which future amendments are made, undermines the constitutional order from within in a way that the amendment power cannot authorize.

The July Charter debate connects to this basic structure analysis in important ways. If the constitutional reform process required by the July Charter is to proceed through the regular Article 142 amendment procedure, as the BNP argues, then the two-thirds majority the BNP commands in the new parliament gives it the power to implement or not implement the Charter's proposals largely on its own terms. If, however, some of the Charter's proposals are so fundamental to the democratic structure of government that they cannot be implemented or blocked by simple parliamentary action alone, the constitutional landscape becomes considerably more complex.

The BNP's Constitutional Position and Its Theoretical Justification

The BNP's constitutional position in the July Charter dispute, articulated in terms of Article 65's definition of parliament's role and Article 142's amendment procedures, is not simply a political maneuver dressed in constitutional language. It represents a substantive constitutional philosophy that takes the written constitution's procedures seriously as constraints on political action, including the actions of popular movements seeking constitutional change. This philosophy has respectable theoretical antecedents.

Jeremy Waldron's "Law and Disagreement" argues, in a famous critique of judicial review, that constitutional democracy requires respecting the dignity of legislatures as the primary venues for making fundamental collective decisions, and that the courts' tendency to override legislative judgments on contested constitutional questions undermines rather than protects democratic legitimacy. Applied to the Bangladeshi context, a Waldron-inspired argument would hold that the July Charter's reforms should be implemented through the parliamentary procedures

specified in Article 142, because those procedures embody the democratically legitimate mechanism for constitutional change and respect the institutional dignity of the newly elected parliament.

Against this position stands the argument that the July Charter represents a commitment made before the elections to constitutional changes that transcend ordinary partisan politics, and that using the parliamentary majority to selectively implement only those Charter provisions that serve BNP interests while abandoning those that constrain BNP power would be a betrayal of the democratic mandate that the Charter represented. This argument connects to the "pre-commitment" theory examined in Part One in connection with Fuad's reform charter proposal: the point of pre-commitment mechanisms is precisely to bind political actors in advance against the temptation to use power to eliminate the constraints on power, and a parliament that unilaterally decides which pre-commitments to honor and which to ignore is not honoring the pre-commitment logic at all.

Both Fuad's institutional analysis and Manir's constitutional advocacy reflect awareness of this tension. Fuad's reform charter proposal was explicitly designed as a binding commitment that all parties would make in advance of elections, with the goal of constraining future government behavior through pre-electoral agreement rather than depending on post-electoral goodwill. The fact that the BNP's behavior in relation to the July Charter is precisely the kind of post-electoral revision of pre-electoral commitments that Fuad's approach was designed to prevent is a significant indictment of the practical implementation of his theoretical framework, even if it does not undermine the theory itself.

Manir's advocacy for the judicial independence provisions of the July Charter, including his public condemnation of the repeal of the Supreme Court Secretariat Ordinance, reflects the view that some constitutional reforms are not merely political preferences but structural requirements of legitimate governance that cannot be traded away in parliamentary dealmaking. This is a form of the basic structure argument applied not to formal constitutional amendment but to the institutional arrangements that give constitutional rights their practical effect: if judicial independence is a constitutional value, legislation that undermines it is constitutionally problematic even if it is formally enacted through proper procedures.

Constituent Power and Its Limits: Sieyes to Schmitt to Ackerman

The deepest theoretical question raised by the July Charter dispute is the question of constituent power: who has the authority to remake a constitutional order, and through what procedures? The classical theory of constituent power, associated with Emmanuel-Joseph Sieyes's "What Is the Third Estate?" and developed through the constitutional thought of the French and American revolutions, distinguishes between the constituent power (pouvoir constituant), which creates and can remake constitutional orders, and the constituted powers (pouvoirs constitues), which operate within the constitutional order and can modify it only through the procedures the order itself specifies.

Carl Schmitt's appropriation and darkening of the Sieyes tradition, in his "Constitutional Theory" of 1928, argued that constituent power is essentially unlimited and that moments of genuine

constituent power, moments when "the people" or a revolutionary movement exercises its fundamental political will, override and replace existing constitutional constraints. Schmitt's theory was deeply influential in twentieth-century constitutional thought, though its association with his own political trajectory, through his collaboration with National Socialism, has led subsequent scholars to approach it with great caution.

Bruce Ackerman's "We the People" trilogy offers a more democracy-friendly version of constituent power theory, developing the concept of "constitutional moments" in which genuinely transformative popular political mobilizations can legitimately produce constitutional change outside the formal amendment procedures, as long as the change is ultimately ratified through normal democratic processes. Ackerman's analysis of the American constitutional experience identifies the founding, Reconstruction, and the New Deal as three such constitutional moments in which the constitutional understanding was fundamentally transformed through processes that did not strictly comply with the formal amendment procedures.

The Implementation Order's invocation of "the sovereign popular will expressed through the July-August 2024 student-people's uprising" as the source of its constitutional authority is, in effect, a Sieyes-Schmitt-Ackerman type argument: the uprising constituted an exercise of constituent power that empowers the subsequent constitutional actors to remake constitutional arrangements outside the formal procedures. This argument has genuine intellectual force as an account of the uprising's transformative significance. But it also carries the dangers that Schmitt's appropriation of the constituent power concept demonstrated: a doctrine that allows popular uprisings to override constitutional constraints can be invoked by future actors whose popular credentials are considerably less legitimate than those of the July 2024 movement.

The specifically legal question is whether Bangladeshi constitutional law recognizes constituent power of this kind, or whether the constitution's formal amendment procedure of Article 142 is the exclusive mechanism for constitutional change. The Appellate Division's jurisprudence, including both the 2025 caretaker case ruling and the broader development of the basic structure doctrine, suggests a court that is developing a more nuanced understanding of constitutional legitimacy than pure positivism would permit, but that has not yet clearly articulated the conditions under which extra-procedural constitutional change is legitimate. Part Four of this textbook will examine the specific constitutional reform proposals in detail, but the fundamental question of constituent authority is the theoretical substructure beneath all the specific institutional debates.

CHAPTER TWENTY-SEVEN: THE SEVEN SUBJECTS AS CONSTITUTIONAL ACTORS

Their Specific Arguments and Their Philosophical Foundations

Asaduzzaman Fuad: Institutionalism as Constitutional Philosophy

Fuad's contributions to the July Charter process, while not always directly visible in official proceedings, reflect the institutional reform philosophy that he has consistently articulated in his public commentary. His specific position on the Constitutional Reform Council dispute, insofar as it can be inferred from his general institutional analysis, is likely to be procedurally cautious but substantively reformist: supportive of the July Charter's specific proposals on bicameralism, term limits, and judicial independence, but skeptical of extra-constitutional implementation mechanisms that could be invoked in future by actors less committed to democratic values.

The Constitutional Reform Commission's recommendation for a bicameral parliament, which appears in the July Charter as a central proposal, connects directly to Fuad's theoretical concern about the "winner-takes-all" problem in Bangladesh's parliamentary system. His public advocacy for proportional representation in the upper house, as provided in the referendum questions (which specified that the 100-member upper house would be constituted on the basis of parties' proportional vote shares in the national election), reflects the recognition that a purely majoritarian upper house would simply replicate the lower house's tendency toward super-majority dominance by a single party.

The specific design of the upper house proposed in the July Charter is worth examining against comparative constitutional experience. The German Bundesrat, composed of representatives of state governments rather than directly elected members, provides a territorial representation function that is one of the classic justifications for bicameralism in federal systems. The British House of Lords, in its current composition, provides a partly appointed, partly elected body whose greater independence from electoral pressures allows for a more deliberative legislative process. The Australian Senate, elected on a proportional basis with state-based constituencies, provides effective minority party representation that constrains the lower house majority in ways that have sometimes made Australia's legislative process appear paralyzed but that also reflect the complexity of Australian political opinion more accurately than the House of Representatives.

The Bangladeshi upper house's proposed proportional composition is closest to the Austrian model, in which the Bundesrat's composition reflects the proportional strength of parties in state parliaments. In the Bangladeshi context, a proportionally constituted upper house would give significant representation to parties that win substantial vote shares but fewer constituency seats than their vote share would suggest, including the AB Party that Fuad represents. This makes the proportional upper house proposal particularly consistent with Fuad's political interests as well as his theoretical commitments, a coincidence that does not necessarily undermine the theoretical argument but that should be noted for analytical completeness.

His specific argument for a reform charter as a binding pre-electoral commitment, examined in Part One, has found at least partial expression in the July Charter itself, which was signed by twenty-four parties before the elections. But the Charter's subsequent vulnerability to post-electoral revision by the BNP majority illustrates the limitation of voluntary pre-commitment mechanisms in the absence of enforcement structures. The theoretical question Fuad's approach raises, and that the July Charter's implementation difficulties make urgent, is whether there is any institutional design that can make pre-electoral constitutional commitments genuinely

binding on post-electoral governments, without creating such rigidity that the constitutional order cannot adapt to changing circumstances.

The answer that comparative constitutional design has developed is the independent constitutional court with strong enforcement powers, operating within a constitutional framework that makes amendment of its fundamental provisions procedurally demanding. Germany's Federal Constitutional Court, operating under a Basic Law whose "eternity clause" makes certain provisions formally unamendable, comes closest to this ideal. Bangladesh's constitutional design does not yet include either an eternity clause or a constitutional court (the Supreme Court performs constitutional review functions but is not a separate institution), and the post-August reform process has not produced a clear consensus on whether such innovations would be appropriate or feasible.

Rumeen Farhana: Parliamentary Advocacy and the Construction of Constitutional Meaning

Farhana's most significant contributions to Bangladeshi constitutional development have been made through her parliamentary speeches and public commentary, which have consistently invoked specific constitutional provisions and international human rights standards in ways that add to the public record of rights advocacy even when they do not directly change legal outcomes. Her role as a constitutional actor has been primarily one of naming and framing: making visible the constitutional dimensions of political controversies that might otherwise be discussed purely in political terms.

Her declaration of the 2024 election as illegal, made on the floor of parliament and cited in Part Two as one of the central episodes of her political career, is a constitutional claim of a specific kind. Article 121 of the constitution requires that elections be conducted in a free, fair, and credible manner, and Article 11 commits the state to ensuring fundamental human rights including the right to vote. Farhana's declaration that the elections violated these provisions was not merely a political protest but a constitutional argument, invoking specific constitutional language against a government that had formally complied with the constitutional procedures for holding elections while substantively violating the constitutional values those procedures are intended to secure.

The theoretical framework most relevant to Farhana's parliamentary advocacy is what American legal scholars call "popular constitutionalism," associated with Mark Tushnet, Larry Kramer, and Robert Post. Popular constitutionalism holds that the constitution is not primarily a legal document to be interpreted by courts but a political document whose meaning is continuously constructed through the practices of democratic politics, including legislation, executive action, and popular mobilization. On this view, Farhana's parliamentary declaration of the elections' illegality is not merely political commentary but a contribution to the ongoing construction of constitutional meaning, one that competes with the government's own claim to constitutional legitimacy and is ultimately vindicated or rejected through political processes rather than purely through judicial determination.

This framework fits Farhana's actual practice well, since she has consistently operated at the intersection of legal argument and political advocacy rather than primarily in the courtroom. Her role is closer to what Frank Michelman calls the "citizen-critic," the democratic participant who engages with constitutional values in public political discourse, than to the "judicial guardian" model in which constitutional meaning is primarily the courts' prerogative.

Her 2026 parliamentary speech on women's representation and on the Bangladesh Bank appointment, discussed in Part Two, exemplifies this citizen-critic role. The observation that only one of the eight advisers in the interim government was a woman is not a formal legal argument, but it is a constitutional claim about the gap between the constitution's formal commitment to gender equality (Article 28's prohibition of discrimination on the grounds of sex) and the substantive reality of women's exclusion from the highest levels of decision-making. Similarly, her critique of the Bangladesh Bank Governor's appointment for political connections rather than economic expertise invokes the principle that public appointments should serve merit-based criteria, which is implicit in the constitution's general commitment to the rule of law and good governance.

The specific legal provisions relevant to appointments in Bangladesh include Article 113A, introduced by the Fifteenth Amendment, which authorized the President to appoint persons to various constitutional positions on the advice of the Prime Minister. This provision, read in conjunction with Article 56's requirement that the Prime Minister command the confidence of parliament, creates a constitutional structure in which high-level appointments are ultimately subject to parliamentary accountability, at least indirectly. Farhana's critique of specific appointments is therefore a form of parliamentary accountability that the constitution specifically contemplates, even if the specific constitutional provision she is invoking is less a specific article than the general principle of responsible government.

Mohammad Shishir Manir: Proceduralism as Constitutional Vision

Manir's contributions to Bangladeshi constitutional development are primarily technical and procedural in character: he has argued for specific institutional designs, challenged specific governmental actions in court, and insisted on specific procedural requirements in ways that advance the longer-term development of constitutional governance even when the immediate political consequences of his positions are contested. The best summary of his constitutional philosophy might be the phrase "institutional integrity," understood as the requirement that public institutions operate according to the internal standards appropriate to their purposes rather than according to the interests of those who currently control them.

This institutional integrity philosophy is visible across all of his major public interventions. In the Jamaat-e-Islami registration case, the argument was that the Election Commission's standard for party registration should be applied consistently rather than selectively, and that a registration decision made in 2013 for political reasons rather than legal ones should be corrected by courts applying principled constitutional analysis. In the Article 116 case, the argument was that the constitutional provision requiring Supreme Court control of the subordinate judiciary should actually mean what it says, rather than being honored in form while violated in substance. In the

judicial appointments context, the argument is that merit-based appointment criteria should be legally enforced rather than merely aspirationally stated.

What connects all of these arguments is the proposition that constitutional provisions mean something specific and that the gap between their formal content and institutional reality is not merely a political problem but a constitutional failure that courts have both the authority and the obligation to address. This proposition is, in one sense, entirely uncontroversial: of course constitutional provisions should be implemented as they say. But in the specific context of Bangladesh, where the gap between constitutional text and governmental practice has been so persistently wide across so many governments of different political orientations, the proposition has a radical quality that Manir's advocacy gives concrete form.

The theoretical tension in Manir's constitutional vision is the one identified in Part Two: between the demands of procedural consistency and the demands of substantive justice. In the Abrar Fahad case, the procedural consistency argument required defense representation for convicted perpetrators of a brutal murder. In the Jamaat registration case, the procedural consistency argument required restoring the electoral rights of a party whose 1971 conduct and religious-political ideology many Bangladeshis find profoundly objectionable. In the judicial independence context, the procedural consistency argument requires insisting on the Supreme Court's administrative autonomy even when that autonomy may reduce the elected government's ability to ensure that the courts' administration is responsive to democratic accountability.

Each of these positions is defensible on principled procedural grounds, and each involves real costs that the procedural principle requires accepting. The capacity to accept those costs, to defend the rights of unpopular defendants, to restore the legal standing of a party with a deeply problematic historical record, to insist on judicial independence even against a democratically elected government, is what separates genuine proceduralism from convenient invocation of procedural principles when they serve partisan interests.

Barrister Suman: Accountability Litigation and Its Structural Limits

The constitutional significance of Suman's pre-2024 legal activism lies not primarily in any specific legal outcome it produced but in its demonstration that the PIL mechanism can function as an accountability tool even in conditions of significant political adversity. His S. Alam Group petition, his public interest filings on financial crime, and his media commentary that exposed specific instances of political corruption were contributions to a constitutional culture of accountability that the formal institutions of Bangladesh had largely failed to develop.

The specific constitutional provision that public interest accountability litigation most directly invokes is Article 7(1), which declares that "all powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of, this Constitution." This article is the constitutional foundation for the principle that public power is a trust held on behalf of the people rather than a private resource of those who exercise it, and that the misuse of public power for private benefit is a constitutional violation as much as a political failure.

The progressive development of Article 7 as a foundation for accountability litigation is one of the most important potential contributions of PIL to Bangladesh's constitutional culture. When courts enforce the accountability implications of Article 7, they are not merely applying a technical provision but articulating a fundamental constitutional principle about the purpose of government and the obligations of public officials. The connection between Article 7's "power of the people" principle and the specific accountability claims that PIL petitions advance is what gives PIL its constitutional weight as opposed to its merely procedural significance.

The structural limitation that Suman's experience reveals is the dependence of PIL accountability mechanisms on courts that are willing to take them seriously. In a context where the executive controls judicial appointments and career prospects, PIL petitions challenging executive-connected actors are systematically less likely to succeed than PIL petitions on matters where the executive has no direct interest. The post-August reforms to judicial appointments, aimed at creating genuine merit-based selection, are therefore not merely institutional desiderata but prerequisites for PIL's effective operation as a constitutional accountability mechanism. The repeal of the Judges Appointment Ordinance raises precisely this concern in its most immediate form.

Nijhum Majumdar: International Law as Constitutional Resource

The most distinctive contribution of Majumdar's scholarly work to Bangladeshi constitutional development, if that work achieves the quality its international criminal law focus suggests, is the development of international law as a constitutional resource in the specific context of mass atrocity accountability. The incorporation of international legal standards into domestic constitutional analysis is not automatic in Bangladesh's constitutional system, which does not include a provision like Article 25(2) of the Indian constitution ("The state shall endeavour to secure... universal standards of international behaviour") explicitly directing courts to have regard for international law in constitutional interpretation.

However, the Bangladesh constitution's commitment in Article 25 to "promotion of international peace, security, and solidarity" and to "respect for international law and the principles enunciated in the United Nations Charter" provides a constitutional basis for using international human rights law as an interpretive resource in rights adjudication. The Appellate Division and the High Court Division have in various contexts drawn on international human rights standards, including ICCPR provisions and the Universal Declaration of Human Rights, in interpreting constitutional rights provisions.

Majumdar's scholarly elaboration of international criminal law doctrines, including command responsibility and JCE, provides a doctrinal vocabulary that Bangladeshi courts can use in the ICT proceedings to achieve both precision in the application of criminal standards and legitimacy in the eyes of the international community whose assessment of the proceedings matters for Bangladesh's standing in the international rule of law community. If his academic work is of the quality that multiple published books on specialized legal topics usually represents, it is a genuine jurisprudential contribution regardless of the political complications of his personal situation.

The irony that his specific scholarly expertise on mass atrocity accountability is now being applied in proceedings that touch his own political network, and potentially himself, gives his situation a philosophical significance that goes beyond individual career trajectory. It illustrates, with particular sharpness, the proposition that jurisprudential principles are only genuinely held as principles if they apply universally, including to those who articulate them. A scholar who develops the doctrine of command responsibility for prosecuting heads of government who order security forces to kill civilians, and who then resists the application of that doctrine to a head of government from his own political tradition, reveals something important about the relationship between scholarly principle and political loyalty. The test of whether Majumdar has genuinely internalized the universal implications of his scholarly work is a test that the current proceedings make unavoidable.

Bobby Hajjaj: Reform Politics and the Constitutional Theory of Good Governance

Hajjaj's transition from third-force reform activist to state minister, examined in Part Two for its implications for political integrity, has constitutional dimensions that Part Three is better positioned to examine. The constitutional theory of good governance, which has become an increasingly important framework in public law scholarship since the 1990s, provides a jurisprudential basis for evaluating ministerial conduct in terms that go beyond the immediate political assessment of whether a minister is competent or honest.

The good governance framework, associated in international law with the UNDP's governance principles, the African Charter on Democracy, Elections and Governance, and the Council of Europe's "12 Principles of Good Governance," articulates a set of standards for the exercise of public authority that include accountability, transparency, effectiveness, responsiveness, inclusiveness, and the rule of law. These principles are increasingly being incorporated into constitutional frameworks both directly, through explicit constitutional provisions, and indirectly, through judicial interpretation of existing constitutional provisions in light of internationally recognized good governance standards.

In Bangladesh's constitutional framework, the good governance implications of Hajjaj's ministerial position relate most directly to Article 21, which requires that every citizen shall endeavor to hold high the ideals of the constitution, and that it shall be the duty of every person in the service of the republic to strive at all times to serve the people. This provision, read as a constitutional standard for the conduct of public officials, implies that ministerial decisions should be made in the public interest rather than in the interest of political sponsors, that resources entrusted to ministers should be deployed for their constitutional purposes rather than for patronage, and that the minister's own reform aspirations should be reflected in concrete policy rather than merely in public rhetoric.

The specific test for Hajjaj in the Ministry of Primary and Mass Education is therefore not merely a political test of whether he can navigate the bureaucratic and party dynamics of ministerial office, but a constitutional test of whether he can maintain the principles of public service and institutional integrity that the constitution's good governance implications require. This is a demanding standard, and the textbook's subsequent parts will examine how the early evidence from his ministerial tenure measures against it.

Andaleeve Rahman: Legal Education and the Constitutional Culture

Rahman's role as Principal of the British School of Law, examined in Part Two for its sociological dimensions, has a constitutional dimension that connects to the broader question of how constitutional culture is reproduced across generations. Constitutional culture, the shared understandings of what constitutional government requires and why it matters, is not merely a product of formal constitutional provisions and court decisions but is also a product of legal education, professional socialization, and public discourse about law and governance.

The quality of constitutional culture in Bangladesh has been persistently poor, for reasons that the constitutional history reviewed in Chapter One makes clear. A legal profession socialized into an environment of political dependence, in which professional success is tied to political connections rather than to technical competence or principled advocacy, tends to reproduce the values and practices of political dependence rather than the values of genuine rule of law. A population educated in a civics curriculum that emphasizes formal constitutional provisions without conveying the institutional practices and cultural commitments that give those provisions their meaning is poorly equipped to demand constitutional governance from its leaders.

The specific contribution that the British School of Law can make to constitutional culture depends on whether its educational program genuinely develops critical constitutional thinking, the ability to analyze constitutional provisions against their purposes, to identify gaps between formal text and institutional reality, and to articulate the values that constitutional governance is supposed to serve, rather than merely technical legal skills that can be deployed in the service of whoever pays best. This is a demanding standard for any legal educational institution, and Rahman's own commitment to it will be partly revealed by the specific curriculum choices, pedagogical approaches, and institutional culture of the School that he leads.

The connection between legal education and constitutional culture has received increasing attention in comparative legal education scholarship. William Twining's "Globalisation and Legal Theory" and Paul Schiff Berman's "Global Legal Pluralism" both examine how legal education shapes legal culture and how the globalisation of legal education creates both opportunities for diffusion of best practices and risks of cultural homogenization that ignores local legal traditions. The British School of Law's name and English common law orientation puts it squarely in the globalisation-through-legal-education debate, and its specific contribution to Bangladeshi constitutional culture will depend on how thoughtfully it navigates the tension between global best practices and local needs.

CHAPTER TWENTY-EIGHT: COMPARATIVE CONSTITUTIONAL CASE LAW AND ITS BANGLADESHI RELEVANCE

Cases from Comparable Jurisdictions

The comparative constitutional law analysis that has informed this textbook throughout draws on a wide range of international precedents, but certain specific cases deserve more detailed

examination because of their particular relevance to the Bangladeshi situation. This chapter examines five clusters of comparative case law that illuminate specific aspects of the constitutional questions Bangladesh has been grappling with since August 2024.

The German Basic Structure Cases

Germany's Federal Constitutional Court's jurisprudence on the limits of constitutional amendment, developed in a series of decisions under Article 79(3) of the Basic Law (the "eternity clause" that places certain provisions beyond the reach of constitutional amendment), provides the most developed judicial analysis of the basic structure doctrine outside India. The Court's 2021 decision on the European Union's Coronabonds (OMT case continuation), while technically an EU law matter, also engaged with the question of constitutional identity as a limit on international integration, reaffirming that the Basic Law's core commitments cannot be surrendered even through international treaty processes that have received constitutional authorization.

The relevance to Bangladesh is direct: if the Bangladeshi Supreme Court develops the basic structure doctrine robustly, it would mean that the BNP, despite its two-thirds parliamentary majority, cannot implement constitutional amendments that destroy the democratic character of the constitutional order, even if those amendments comply with the formal procedures of Article 142. The post-August courts' language about "judicial murder of democracy" suggests a willingness to develop this doctrine, though the precise contours of what constitutes a basic structure violation in the Bangladeshi context remain to be articulated in detail.

The Indian Supreme Court's Constituent Assembly Jurisprudence

The Indian Supreme Court's judgment in Kesavananda Bharati v. State of Kerala (1973) is the foundational case for the basic structure doctrine in the Indian subcontinent, and its influence on Bangladeshi constitutional jurisprudence is both direct (through judicial reference) and indirect (through the shared constitutional heritage of the two systems). The specific holding of Kesavananda, that the constituent power conferred on parliament by Article 368 of the Indian constitution does not extend to destroying or damaging the basic features of the constitution, was the result of a thirteen-judge bench sitting for months to consider the most fundamental question in Indian constitutional law.

The basic features identified in Kesavananda and subsequent cases include: the supremacy of the constitution; the republican and democratic form of government; the secular character of the state; the separation of powers between the legislature, executive, and judiciary; the federal character of the union (specific to India); the dignity of the individual; the unity and integrity of the nation; the welfare state principle; the independence of the judiciary; and the power of judicial review. Later cases, particularly Indira Nehru Gandhi v. Raj Narain (1975), added free and fair elections as a basic feature, which is directly relevant to the Bangladeshi caretaker system debate.

The argument that free and fair elections are a basic feature of Bangladesh's constitutional identity, such that legislative action that systematically undermines electoral integrity violates the

basic structure, is an argument that has been implicitly made by several of our subjects in their public commentary and that the Appellate Division's 2025 caretaker ruling appears to accept at least implicitly. If developed fully, this argument would mean that the Fifteenth Amendment's abolition of the caretaker system was itself unconstitutional, not because the amendment procedures were not followed, but because the result violated the basic structure's requirement of free and fair elections.

The South African Constitutional Court on Accountability

The South African Constitutional Court's engagement with executive accountability provides another comparative reference point, particularly the Court's decisions in the Jacob Zuma era. The 2016 Economic Freedom Fighters judgment, in which the Constitutional Court found that President Zuma had failed to uphold, defend, and respect the constitution by ignoring the Public Protector's remedial action in the Nkandla homestead matter, is a landmark in the judicial enforcement of constitutional accountability obligations against a sitting head of government. The Court's statement that "the President and other members of the Executive must be accountable to the Constitution and to Parliament," and its order requiring Zuma to personally repay state funds, demonstrated that constitutional accountability provisions can be enforced against the most powerful political actors.

The relevance to Bangladesh is partly aspirational: the South African Constitutional Court's willingness to hold a sitting president to constitutional standards, and to order personal remedies against him, represents a level of judicial independence and institutional capacity that Bangladesh's courts have not yet achieved. But it is also practically relevant, in that the ICT's proceedings against Hasina, if conducted with the procedural rigor and independence that constitutional accountability requires, could represent Bangladesh's equivalent of the South African court's accountability jurisprudence.

The Israeli Supreme Court and the Crisis of 2023

The Israeli Supreme Court's jurisprudence during the 2023 judicial reform crisis, in which the Netanyahu government attempted to eliminate the court's power to strike down laws on "unreasonableness" grounds, provides a real-time comparative case study in the relationship between constitutional courts and political actors seeking to reduce judicial constraints. The Court's July 2024 ruling, which invalidated the amendment to the Basic Law that had abolished the "reasonableness" standard, asserting that the court had authority to review and strike down basic laws (Israel's form of constitutional provisions) for the first time in Israeli legal history, represents a dramatic assertion of constitutional supremacy against parliamentary sovereignty.

The Israeli case is analytically interesting for Bangladesh for several reasons. Both countries are parliamentary democracies without entrenched constitutional amendment procedures that provide effective supermajority requirements. Both have experienced attempts by governing parliamentary majorities to reduce judicial power. In Israel, the response was a dramatic assertion by the judiciary of its authority to protect the constitutional order against what the Court characterized as a threat to Israel's democratic character. In Bangladesh, the response has been somewhat different: the Appellate Division's caretaker ruling represents a retrospective

correction of a politically compromised past judgment, while the legislature's repeal of the Supreme Court Secretariat Ordinance represents the new majority's assertion of parliamentary authority over judicial administration.

The Israeli experience suggests that when courts assert their independence against parliamentary action forcefully and with clear constitutional reasoning, the political and public response is determinative: if a sufficiently large coalition of public actors, including the legal profession, civil society, and international partners, supports the court's assertion of independence, the assertion can be politically sustainable. The Bangladeshi legal community's response to the Supreme Court Secretariat Ordinance repeal, including Manir's call for black-badge protests, suggests the beginning of such a coalition, though its current strength and durability are uncertain.

The Colombian Peace Process and Transitional Constitutionalism

Colombia's constitutional experience with the peace process between the government and FARC guerrillas, which resulted in the 2016 peace agreement and the subsequent constitutional adjustments, provides a comparative model for understanding how democracies can use legal mechanisms to transition from political conflict to institutional stability without fully abandoning constitutional continuity. The Colombian Constitutional Court's engagement with the peace agreement, including its Special Jurisdiction for Peace (JEP), which provides alternative accountability mechanisms for conflict-related crimes that balance accountability with reintegration, offers a sophisticated alternative to the binary choice between full criminal prosecution and impunity.

The relevance to Bangladesh is indirect but significant: the question of how to design accountability mechanisms for the 2024 killings that are both genuinely accountable and conducive to political stabilization is one to which Bangladesh's constitutional actors, including our seven subjects, have not yet provided a fully satisfactory answer. The ICT's prosecution-focused approach, while legally justified, may not adequately address the broader transitional justice goals of truth-telling, institutional reform, and community healing that a comprehensive accountability framework would pursue. The Colombian JEP's emphasis on truth-telling in exchange for reduced sentences and political participation rights is one model; South Africa's Truth and Reconciliation Commission's emphasis on amnesty in exchange for full disclosure is another. Neither model would transfer directly to Bangladesh, but engagement with both would enrich the constitutional design thinking that the current moment requires.

CHAPTER TWENTY-NINE: INTERNATIONAL LAW DIMENSIONS OF BANGLADESH'S CONSTITUTIONAL PROVISIONS

Treaty Obligations and Their Constitutional Status

Bangladesh is party to an extensive array of international human rights treaties, including the ICCPR (ratified 1998), the International Covenant on Economic, Social and Cultural Rights

(ratified 1998), the Convention Against Torture (ratified 1998), the Convention on the Elimination of All Forms of Discrimination Against Women (ratified 1984), the Convention on the Rights of the Child (ratified 1990), and the International Convention on the Elimination of All Forms of Racial Discrimination (ratified 1979). Each of these treaties creates binding international legal obligations, and the question of how those obligations interact with Bangladesh's constitutional framework is both technically important and practically significant for all seven of our subjects.

The constitutional status of international treaties in Bangladesh is governed by Articles 25 and 145A of the constitution. Article 25 commits the state to basing its foreign relations on principles including "respect for international law and the principles enunciated in the United Nations Charter." Article 145A requires that all treaties with foreign countries be submitted to the President, who shall cause them to be laid before parliament. The Bangladeshi constitution does not, however, contain a monist provision automatically incorporating treaty obligations into domestic law; Bangladesh operates on a generally dualist basis in which treaties require legislative implementation to create domestically enforceable rights.

This dualist framework creates a gap between Bangladesh's international treaty obligations and the domestic legal rights that its courts enforce. The ICCPR's Article 19 freedom of expression guarantee, for example, creates a binding international obligation, but unless the Bangladeshi legislature enacts specific implementing legislation giving it domestic legal force, a citizen cannot directly invoke Article 19 in a Bangladeshi court. The courts can, however, use ICCPR standards as interpretive resources in construing the constitutional provisions of Article 39, and the extent to which they do so depends on the legal culture of the judiciary and the quality of legal advocacy before it.

The specific ICCPR provisions most relevant to the questions examined in this textbook include Article 14 (fair trial rights, including the right to a public hearing, the presumption of innocence, and the rights of the accused in criminal proceedings), Article 19 (freedom of expression), Article 21 (freedom of assembly), Article 22 (freedom of association, including political party formation), and Article 25 (rights to political participation, including voting and access to public service). The Human Rights Committee's General Comments on each of these articles, and its concluding observations on Bangladesh's periodic reports, provide detailed authoritative interpretations of Bangladesh's specific obligations that all of our subjects who engage with constitutional rights arguments should be familiar with.

The Convention Against Torture's relevance is specifically to the conditions of detention of those arrested in the post-August accountability proceedings, including Suman and numerous Awami League officials. The CAT's Article 11 requires states to keep arrest, detention, and imprisonment procedures under systematic review to prevent torture and cruel treatment. Bangladesh's record on conditions of detention has historically been poor, with credible reports of mistreatment in police custody, overcrowding in prisons, and inadequate medical care for detainees. The post-August transition's commitment to institutional reform should include reform of detention conditions, but this is an area where the gap between formal commitment and practical reality has historically been particularly wide.

The Customary International Law of Human Rights

Beyond treaty obligations, customary international law creates obligations for Bangladesh even without specific treaty ratification. Customary international law norms achieve binding status through the combination of consistent state practice and opinio juris, the belief that the practice is legally required. Several human rights norms have achieved the status of customary international law, including the prohibition of torture, the prohibition of arbitrary killing, the prohibition of slavery, and some elements of the right to a fair trial.

The prohibition of crimes against humanity, as established by the Nuremberg Charter and subsequently confirmed by the International Law Commission's articles on state responsibility and by the extensive practice of international and domestic courts, is now widely regarded as a customary international law norm, binding on all states regardless of treaty ratification. The ICT's prosecution of the 2024 killings as crimes against humanity is therefore not merely an exercise of domestic criminal jurisdiction but an implementation of Bangladesh's customary international law obligations.

The International Law Commission's 2019 Draft Articles on Prevention and Punishment of Crimes Against Humanity, while not yet in force as a treaty, reflect the current state of the international community's understanding of what states are obligated to do when crimes against humanity occur on their territory. Article 4 of the Draft Articles requires states to take effective legislative, judicial, administrative, and other measures to prevent and punish crimes against humanity. Article 7 requires states to criminalize crimes against humanity in domestic law. Article 10 establishes the principle of extradite or prosecute (aut dedere aut judicare), requiring states to either extradite persons accused of crimes against humanity to states with jurisdiction or to submit the case to their own prosecuting authorities. India's refusal to extradite Hasina may therefore, depending on the specific grounds of refusal, create questions about India's own compliance with the customary international law principle of aut dedere aut judicare, though the specific legal analysis would require detailed examination of India's domestic legal framework for extradition and prosecution of international crimes.

Regional Human Rights Law and Bangladesh

Unlike most countries in South and Southeast Asia, Bangladesh does not operate within a comprehensive regional human rights system comparable to the European Convention on Human Rights, the American Convention on Human Rights, or the African Charter on Human and Peoples' Rights. The SAARC framework does not include a binding human rights convention, and the ASEAN mechanism, while Bangladesh is not an ASEAN member, similarly lacks binding enforcement provisions. This absence of a regional human rights court means that the primary international enforcement mechanism available to Bangladeshi citizens is the Human Rights Committee's complaints procedure under the Optional Protocol to the ICCPR, which Bangladesh ratified in 2000.

The Optional Protocol allows individuals who have exhausted domestic remedies to submit communications to the Human Rights Committee alleging violations of ICCPR rights by the Bangladeshi state. The Committee's decisions on such communications, while not legally

binding in the same way as court judgments, carry significant normative authority and can create political pressure for remedy. Several communications have been submitted to the Committee in connection with Bangladesh's treatment of journalists, political opponents, and minority communities, and the Committee's concluding observations have consistently identified areas where Bangladesh's practices fall short of ICCPR standards.

The development of a more effective regional human rights mechanism for South Asia would significantly strengthen the external pressure for constitutional compliance in Bangladesh and across the region. Several academics and civil society organizations have proposed the establishment of a South Asian Human Rights Court, modeled on the European Court of Human Rights, which would provide binding regional enforcement of human rights standards. The obstacles to such a development are substantial, primarily the sovereignty concerns of major regional powers including India, Pakistan, and China (in the broader Asian regional context), but the aspiration reflects a genuine gap in the international human rights architecture that disproportionately affects the populations of South Asian countries.

The absence of a regional human rights court means that the international law dimensions of Bangladesh's constitutional questions are primarily matters of political pressure and treaty monitoring rather than binding legal enforcement. This makes the quality of domestic constitutional adjudication all the more important: without effective external enforcement, internal constitutional culture must carry a larger part of the burden of rights protection.

CHAPTER THIRTY: SYNTHESIS

Constitutional Jurisprudence in Bangladesh at the Crossroads

The Theoretical Achievements and Deficits of the Post-August Period

The jurisprudential achievements of the post-August 2024 period in Bangladesh are genuine, and they deserve acknowledgment before the analysis of their limitations. The Appellate Division's reversal of the caretaker case ruling, with its frank acknowledgment of the 2011 court's political failure, represents a level of judicial self-examination that is rare in any legal system and that may prove important for the long-term development of Bangladesh's constitutional culture. The High Court's direction to establish an independent Supreme Court secretariat, implementing twenty-five years of non-compliance with the Masdar Hossain directives, addresses one of the most fundamental structural deficits in Bangladesh's institutional architecture. The constitutional reform process itself, whatever its procedural limitations, has produced the most comprehensive and evidence-based agenda for constitutional design since 1972.

The jurisprudential deficits are equally genuine and equally significant. The repeal of the Judges Appointment and Supreme Court Secretariat ordinances by the new parliament, before either ordinance had been in force long enough to demonstrate its effects, suggests that the reform momentum generated by the August 2024 uprising is already being attenuated by the institutional inertia and political incentives that have frustrated earlier reform efforts. The BNP's

refusal to participate in the Constitutional Reform Council, while legally defensible, has the effect of concentrating constitutional reform decision-making power in a single party rather than distributing it across a broader coalition of constitutional actors, which is exactly the "winner takes all" dynamic that the reform agenda was supposed to address. And the ICT's proceedings, while addressing the genuine international legal obligation to prosecute crimes against humanity, are not demonstrably meeting the procedural standards that would give them unimpeachable international legitimacy.

The specific positions taken by each of our seven subjects in relation to these achievements and deficits reveal, across the textbook's analysis as a whole, a consistent pattern: each subject is more sophisticated and more principled in identifying the constitutional failures of their opponents than in acknowledging the constitutional failures within their own political tradition. Farhana is sharper in her critique of the BNP government's judicial independence failures than of the BNP's internal governance practices that led to her own expulsion. Manir is more rigorous in his defense of Jamaat-e-Islami's constitutional rights than in his engagement with the substantive objections to Jamaat's participation in democratic politics given its 1971 conduct. Fuad is more systematic in his institutional analysis of general governance failures than in his accountability for the specific policy positions of his own party. Suman was more vigorous in his pre-2024 pursuit of others' financial accountability than in his acknowledgment of the political complicity that his own career embodied.

This pattern is not unique to Bangladesh or to these specific individuals. It reflects a general feature of political reasoning that psychologists call "motivated cognition," the tendency to apply more demanding critical standards to information and arguments that challenge one's own interests or affiliations than to those that support them. The philosophical tradition of integrity, examined in Part Two, holds that genuine intellectual honesty requires overcoming this tendency, applying the same critical standards to one's own positions as to opponents'. None of our seven subjects fully achieves this standard, and none should be harshly judged for falling short, since the standard is demanding and few political actors anywhere achieve it consistently.

What the analysis suggests is the need for institutional rather than individual solutions to the problem of motivated cognition in constitutional development. Constitutional culture changes most durably not when exceptional individuals maintain principled consistency against the incentives of their political environment but when institutions are designed so that the costs of principled consistency are lower and the costs of motivated inconsistency are higher. This is why Fuad's structural analysis, Manir's procedural advocacy, and the reform commission's institutional proposals are, in the long run, more important than the specific positions any individual takes on specific controversies.

The Question of Constitutional Maturity

Constitutional maturity, as a concept in comparative constitutional law, refers to the degree to which a constitutional system has developed the institutional practices, legal culture, and political norms necessary for the constitution to function effectively as a constraint on power. Mature constitutional systems are characterized by: widespread recognition across political actors that constitutional rules apply universally, including to those who are currently in power;

institutional capacity to enforce constitutional requirements against the powerful as well as the weak; a legal culture in which constitutional argument is taken seriously rather than treated as merely a rhetorical exercise; and a public that expects constitutional compliance from its leaders and penalizes constitutional violations through political processes.

Bangladesh's constitutional maturity is, on this analysis, partial and unevenly developed. The post-August period represents a significant advance in some dimensions of constitutional maturity, particularly in the willingness of courts to engage with constitutional questions that previous courts had avoided for political reasons, and in the public's demonstrated capacity to mobilize around constitutional grievances, as the July-August uprising showed. But it represents regression in others, particularly in the pattern of reform proposals being advanced and then withdrawn by the new government, which reproduces the cycle that has frustrated constitutional development across multiple previous transitions.

The contribution of our seven subjects to Bangladesh's constitutional maturity is the ultimate test against which their careers and controversies should be evaluated, not merely in terms of their immediate political impact but in terms of the longer-term legal culture they help to create. A legal-political culture that produces figures like Farhana, who maintains constitutional principles even at significant personal political cost, and Manir, who insists on procedural integrity even in unpopular cases, and Fuad, who applies institutional analysis consistently across political transitions, is making progress toward constitutional maturity even if the immediate policy outcomes are disappointing.

Recent Theoretical Developments: 2024-2026

The period from 2024 to 2026 has seen several significant developments in constitutional and legal theory that are directly relevant to the Bangladeshi situation. In transitional justice theory, the United Nations Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence's 2024 report articulated a comprehensive framework for "transformative justice" that goes beyond the traditional criminal accountability, truth commission, and reparations models to include structural and institutional reform as a fourth pillar of transitional justice. This framework, if applied to Bangladesh, would require not merely prosecuting those responsible for the 2024 killings and compensating victims, but also reforming the specific institutional mechanisms, including the Ministry of Home Affairs, the RAB, and the command structures through which security forces receive and carry out orders, that enabled the killings. The ICT proceedings, however legitimate, address only the first pillar of this framework, and the post-August government's institutional reform agenda addresses the fourth, while the truth-telling and reparations pillars remain largely unaddressed.

In democratic theory, Steven Levitsky and Lucan Way's updated analysis of competitive authoritarianism, published in 2024, examines how regimes that combine formal democratic institutions with substantial authoritarian practices have managed the transition from partial to more genuine democracy in some cases and failed to do so in others. Their analysis of the factors that enable genuine democratization, including strong civil society, active and independent media, and effective international pressure for democratic norms, provides a comparative framework for assessing Bangladesh's post-August transition. On all three dimensions,

Bangladesh's situation is mixed: civil society demonstrated remarkable mobilizing capacity in the uprising but faces continued pressures in the post-August period; media freedom has improved significantly from the DSA era but remains constrained; and international pressure has been supportive of the transition but has not consistently demanded the procedural quality of the accountability proceedings.

In legal philosophy, David Dyzenhaus's 2024 elaboration of his "legality" framework, building on his earlier work on the rule of law in states of emergency, provides a theoretical vocabulary for understanding how legal systems maintain or lose constitutional integrity during periods of profound political stress. Dyzenhaus's central argument, that legal legitimacy depends on the fidelity of legal officials, including judges, lawyers, and public servants, to the internal standards of legal reasoning rather than to political outcomes, connects directly to the evaluation of our seven subjects developed throughout this textbook. Each of them, in their different professional roles, is a "legal official" in Dyzenhaus's sense, and each's fidelity to the internal standards of legal reasoning, as against the temptations of political calculation, is the ultimate test of their contribution to Bangladesh's constitutional development.

The Path Forward: Institutional Requirements

Drawing together the analysis of this Part Three, along with the foundations laid in Parts One and Two, several institutional requirements emerge as necessary conditions for the constitutional development that Bangladesh's current moment requires.

The first is judicial independence, genuine and structural rather than merely formal. The analysis of Article 116, the Masdar Hossain precedent, and the Supreme Court Secretariat Ordinance repeal has established that Bangladesh's constitutional commitment to judicial independence has been systematically undermined by executive control of judicial careers, and that the post-August reforms that attempted to address this problem face resistance from a new government that has the same institutional interests in maintaining judicial dependence that previous governments had. The path forward requires either re-enactment of the repealed ordinances, implementation of the July Charter's judicial reform proposals through Article 142 amendment, or some combination of both, accompanied by sufficient political and civic support to make the reforms durable against future erosion.

The second is freedom of expression, specifically the revision of the Cyber Security Act to eliminate provisions that criminalize political, religious, and social commentary in ways incompatible with Article 39's constitutional guarantee and with Bangladesh's ICCPR obligations. The analysis of the DSA and CSA framework has established that the legislative architecture of expression control is systematically incompatible with the constitutional and international law standards that a genuine rule of law commitment requires. The post-August commitment to reform of this area has been partial, and the CSA's continued operation with many DSA-era restrictions intact represents an ongoing constitutional failure.

The third is the quality of the ICT proceedings, specifically ensuring that the prosecution of crimes against humanity committed in 2024 meets the procedural standards that give such proceedings their legitimacy. The analysis of the command responsibility doctrine, the in

absentia problem, and the contempt conviction has established several specific concerns about the current proceedings. These concerns can be addressed through: independent oversight of the ICT's procedures, possibly through engagement with international observers and legal experts; consideration of whether representation mechanisms for Hasina in India can be improved, even short of physical presence; and greater transparency in the evidentiary record that supports the specific charges, including through public disclosure of the factual basis for the command responsibility theory.

The fourth is the implementation of the July Charter's reform proposals through constitutionally valid procedures that command the broadest possible political support. The analysis of the Grundnorm debate, the constituent power theory, and the specific constitutional provisions governing the amendment process has established that the most durable implementation path is through Article 142 amendment backed by the BNP's supermajority, combined with genuine engagement with opposition parties including Jamaat-e-Islami and the NCP on the specific content of the amendments. The BNP's current reluctance to take this path reflects political calculations about the distribution of constitutional reform's benefits and costs that are not primarily constitutional in character.

The fifth, and perhaps most fundamental, is the development of a legal and political culture that takes constitutional principles seriously as universal constraints rather than as selective weapons. This cultural development cannot be mandated by law or institutional design; it requires the sustained effort of the legal profession, civil society, educational institutions, and media, including the contributions of all seven of our subjects in their different professional roles. The analysis across Parts One, Two, and Three of this textbook suggests that all seven subjects have made genuine contributions to this cultural development, even as each has also made compromises and inconsistencies that reduce the contribution's value. The net assessment, which Part Seven will provide more comprehensively, is that the Bangladesh of 2026 has substantially more constitutional culture than the Bangladesh of 2014, though far less than the constitutional moment of August 2024 seemed to promise.

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End of Part Three

Part Four: Gender, Minority Rights, and the Structural Politics of the Bar in the Post-August Period

Part Five: Foreign Relations Law, Sovereignty, and the International Dimensions of Bangladesh's Legal-Political Crisis

Part Six: The New Parliament, Legislative Agenda, and the Constitutional Reform Process

Part Seven: Comparative Perspectives, Theoretical Conclusions, and Assessment of Future Trajectories

Part Four: Gender, Minority Rights, and the Structural Politics of the Bar in the Post-August Period

PREFACE TO PART FOUR

The preceding three parts of this textbook have examined the biographical foundations, the transitional controversies, and the detailed jurisprudential arguments that constitute the intellectual substance of our seven subjects' public careers. Throughout that examination, two dimensions of Bangladeshi political and legal life have appeared recurrently as underlying structural conditions without receiving the sustained analytical attention they deserve: the condition of women in the legal and political systems, and the condition of religious and ethnic minorities under both old and new political orders. Part Four addresses both dimensions with the depth they require.

The decision to treat gender and minority rights within the same part of this textbook reflects a theoretical judgment as well as an organizational convenience. Both dimensions of Bangladeshi political life share a fundamental structural feature: the gap between formal constitutional equality and substantive institutional exclusion. The constitution of Bangladesh, as examined in Part Three, formally prohibits discrimination on grounds of sex, religion, race, and caste. Article 27 declares all citizens equal before the law and entitled to equal protection of the laws. Article 28 prohibits discrimination against any citizen on grounds of religion, race, caste, sex, or place of birth. Article 41 guarantees freedom of religion. These provisions read, on their face, as a comprehensive equality framework that should protect both women and religious minorities from systematic exclusion and discrimination. The reality, documented with painful precision in the research basis for this part, is that the gap between these formal guarantees and the lived experience of both groups has remained extraordinarily wide across the entire post-independence period and has not been adequately narrowed by the post-August transition.

The theoretical frameworks that analyze this gap, including feminist jurisprudence, critical race theory (adapted to the Bangladeshi context of religious and ethnic minority discrimination), and the sociology of legal institutions, are examined in detail in this part. Each of our seven subjects has a position, explicit or implicit, on both gender and minority issues, and those positions are examined for their theoretical coherence, their political honesty, and their practical implications. Farhana's is the most directly engaged position on gender, since her own career is one of the most vivid illustrations of the structural conditions the analysis addresses. But all seven subjects' silences on these issues are as analytically significant as their statements, and Part Four will attend to both with equal care.

A note on scope: Part Four examines gender in the legal and political context, not in the personal sense of commenting on our subjects' private lives or personal relationships. The analysis is structural and institutional, concerned with the conditions under which women participate in legal and political institutions, and with the specific barriers and enablers that our subjects'

careers illuminate. Similarly, the examination of minority rights is concerned with institutional and legal structures, not with the religious or ethnic identity of any of our subjects in a personal sense.

CHAPTER THIRTY-ONE: THE GENDER PARADOX OF BANGLADESHI POLITICS

Two Women Prime Ministers, Seven Women MPs, and the Abyss Between Them

The most immediately striking fact about gender in Bangladeshi political life is the paradox that The Diplomat identified in its February 2026 analysis: a country that has had two female prime ministers in succession for more than three decades simultaneously produces one of the lowest rates of women's parliamentary representation in its 2026 elections. Only seven women were directly elected to the 300-seat parliament in the 13th parliamentary elections, representing 2.33 percent of directly elected seats. The share of women candidates fell to 3.93 percent, the lowest in twenty-five years. The Dhaka Tribune's reporting on the ActionAid Bangladesh dialogue of March 2026 confirmed that this was "the same number as in the 2001 general election," representing a quarter-century of complete stagnation in women's direct parliamentary representation despite the nominal advancement of women's rights.

This paradox is not accidental. It reflects structural features of Bangladeshi political culture that the feminist jurisprudence tradition has analyzed with considerable precision in other contexts and that deserve equally precise analysis in the Bangladeshi context. The two female prime ministers, Sheikh Hasina and Khaleda Zia, represent a form of gender advancement that scholars of South Asian politics have characterized as "dynastic feminism": women who achieve leadership positions through inheritance of familial political capital rather than through the kind of grassroots political organization and structural change that would create conditions for broader women's participation. Hasina's position as the daughter of Sheikh Mujibur Rahman and Khaleda Zia's position as the widow of General Ziaur Rahman gave each access to the symbolic, organizational, and financial resources of established political dynasties in ways that did not require the party organizations to commit to gender equality as a structural principle.

The consequence of dynastic rather than structural feminism is precisely the pattern that Bangladesh exhibits: exceptional women at the very top of political hierarchies, combined with systematic exclusion of women from all intermediate levels of political organization and parliamentary representation. This is the pattern that Catherine MacKinnon's dominance theory, developed in the American context of the formal equality era, would predict: when gender equality is achieved through exceptional individual advancement rather than through systemic structural change, the exceptional advances coexist with persistent systemic exclusion and can even function to legitimate that exclusion by demonstrating that the system is not categorically closed to women.

The 2026 election data makes this analysis concrete and unavoidable. The July Charter, which all major parties signed, specified that political parties should nominate at least five percent women candidates for parliament. This is already a remarkably modest target: five percent women

candidates would still produce, even if all women candidates won, a parliament that is ninety-five percent male. Yet, as The Diplomat's analysis documents, "all political parties fell short of upholding even this marginal percentage of representation in their nominations. As many as 30 political parties in Bangladesh nominated no women candidates in the elections." Jamaat-e-Islami, which won 68 seats and became the largest opposition party, "contested 270 seats without putting forward a single woman."

The constitutional significance of this data is substantial. The Bangladesh constitution's Article 28(2) specifically provides that "women shall have equal rights with men in all spheres of the state and of public life." The Supreme Court has not yet developed a jurisprudence that treats systematic exclusion of women from parliamentary representation as a violation of Article 28(2), but such a jurisprudence is both logically available and theoretically compelling. The formal equality guarantee of Article 28(2), read in light of the substantive equality principle that international human rights law requires, implies not merely that women may not be actively barred from political participation but that the state and its institutions, including political parties, bear positive obligations to ensure conditions in which women's equal participation is actually achievable.

The positive obligation interpretation of equality guarantees has been developed most fully in the CEDAW framework. The Convention on the Elimination of All Forms of Discrimination Against Women, to which Bangladesh is a party, defines discrimination against women in Article 1 as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms." The "effect" formulation is crucial: discrimination is defined by its impact, not merely its intent. Nomination practices that systematically produce far fewer women candidates than men, even without any explicit policy of excluding women, constitute discrimination under Article 1's effects-based definition.

Article 4 of CEDAW specifically contemplates "temporary special measures aimed at accelerating de facto equality between men and women" as non-discriminatory, and CEDAW's Committee has articulated in its General Recommendation 25 that such measures are not exceptions to the equality principle but expressions of it, since they address the structural conditions that prevent formal equality from producing substantive equality. Bangladesh's reserved seats system for women, which provides 50 seats allocated by party leadership to women nominees, is in principle a CEDAW-consistent special measure. But as examined in Part Two and as the ActionAid Bangladesh dialogue confirmed, the reserved seats system as currently implemented functions more as a patronage mechanism for party-loyal women than as a measure that accelerates de facto equality, since reserved seats are allocated by party leadership rather than through competitive election and therefore reward loyalty rather than reflecting women's autonomous political strength.

The proposal for direct election to reserved women's seats, articulated by Farhana in her post-March 2026 statement that "if representatives for reserved seats were chosen through direct elections, it would create an opportunity for grassroots women politicians to secure their fair rights," is therefore not merely a reform proposal but a CEDAW compliance argument. Direct

election to reserved seats would transform the mechanism from a patronage instrument into a genuine accelerator of women's political participation by creating an electoral incentive for women to organize, build constituency relationships, and develop the political skills and networks that political careers require. The current system's party-allocation mechanism denies this developmental pathway to the vast majority of women in politics, reserving it for those who are already within the leadership circles of major parties.

Farhana's observation, as quoted in The Business Standard's March 2026 reporting, that Bangladesh's political parties "still harbour misogynistic attitudes," and her identification of the persistence of the "obedient girl" stereotype as a structural barrier to women's political engagement, connects the formal equality analysis to the cultural dimension that formal legal provisions cannot address alone. The socialization of Bangladeshi women into roles that emphasize domesticity, deference, and the avoidance of public controversy is reinforced by political party cultures that similarly expect women members to support rather than lead, to implement rather than decide, and to defer to male party leaders' judgments about candidate selection even when those judgments systematically disadvantage women.

The data on gender-based violence in the political context is equally alarming. The ActionAid Bangladesh dialogue reported a 52.3 percent increase in reported rape cases in 2025 compared to 2024, with 272 women and girls experiencing violence in January 2026 alone. The connection between gender-based violence and women's political participation is not merely anecdotal: research across multiple countries has demonstrated that high levels of gender-based violence in society correlate with lower levels of women's political participation, because the threat of violence, both specific and systemic, functions as a deterrent to women's engagement in public life. When Farhana described the "struggle to protect women's presence in politics" as "exhaustingly difficult" in the ActionAid Bangladesh dialogue, she was naming a reality that the statistics about rape and violence in Bangladesh make unmistakably concrete.

CHAPTER THIRTY-TWO: THE THEORETICAL FRAMEWORK: FEMINIST JURISPRUDENCE AND ITS BANGLADESHI APPLICATION

MacKinnon, Scales, and the Limits of Formal Equality in a Developing Democracy

Feminist jurisprudence as an academic discipline has developed several competing frameworks for understanding the relationship between law and gender inequality, and selecting among them for application to the Bangladeshi context requires attention to both the theoretical debates and the specific features of Bangladeshi society that make some frameworks more illuminating than others.

Catherine MacKinnon's dominance theory, already introduced in this chapter, argues that formal equality is insufficient to address gender inequality because the legal system itself is structured by male power and therefore incorporates male perspectives as the neutral standard against which equality is measured. On MacKinnon's analysis, asking whether women are treated "equally" to men is already a concession to a framework that treats male experience as the norm.

The relevant question, she argues, is not whether women are treated equally to men but whether the legal system addresses the conditions that produce women's subordination to male power. The distinction matters practically: a legal system that grants women formal equality of opportunity in a context of structural gender inequality in education, economic resources, physical safety, and political organization has not achieved substantive gender equality.

Applied to the Bangladeshi political context, MacKinnon's dominance theory explains why the formal equality guarantees of Articles 27 and 28, combined with a reserved seats mechanism and nominal party commitments to women's representation, have not produced genuine gender equality in political participation. The structural conditions of women's political subordination, including the financial dependence that makes independent candidacy prohibitively expensive for most women, the social norms that stigmatize women who engage in public controversy, the party organizational cultures that treat women as supporters rather than leaders, and the violence and harassment that women face in public political space, are all expressions of the male dominance that MacKinnon's framework identifies as the underlying reality behind formal equality's surface.

Ann Scales' "The Emergence of Feminist Jurisprudence," published in the Yale Law Journal in 1986 and still cited in contemporary feminist legal scholarship, developed the concept of "inequalitarian" jurisprudence as a critique of both formal equality and "difference feminism" (which argues that law should recognize and accommodate women's distinctive characteristics rather than treating women identically to men). Scales argued that both approaches remain within a male-defined framework: formal equality treats women as if they were men, while difference feminism defines women's difference in terms that have historically been used to justify their subordination. Scales proposed instead a jurisprudence focused on the social conditions that produce inequality and on using law to transform those conditions.

The most important recent development in feminist legal theory relevant to the Bangladeshi context is the "intersectionality" framework associated with Kimberle Crenshaw. Crenshaw's 1989 Stanford Law Review article, "Demarginalizing the Intersection of Race and Sex," and her subsequent work on intersectionality have demonstrated that women's experiences of discrimination are not uniform but vary systematically along dimensions of race, class, religion, disability, and other markers of social difference. A wealthy, urban, professionally qualified woman like Farhana, who holds a degree from the University of London and was called to the bar by Lincoln's Inn, faces very different structural barriers to political participation than a poor, rural woman with limited formal education. An analysis of gender inequality in Bangladesh that treats "women" as a uniform category obscures the specific forms of inequality experienced by women at different positions in the multiple hierarchies of Bangladeshi social life.

The intersectionality framework is particularly important for understanding the situation of minority women: Hindu women, women from the Chittagong Hill Tracts, Ahmadiyya women, and women from other marginalized communities experience the intersection of gender discrimination with religious or ethnic discrimination in ways that compound their vulnerability in ways that single-axis analysis cannot capture. A Hindu woman who is the victim of communal violence faces both gender-specific forms of violence (sexual violence, specifically) and

religion-specific forms of targeting, and the law's failure to provide adequate protection reflects both its gender blindness and its religious minority blindness simultaneously.

Martha Fineman's "vulnerability theory," developed since 2008, offers another framework that is particularly illuminating for the Bangladeshi context. Fineman argues that the liberal legal tradition's conception of persons as autonomous, self-sufficient individuals able to take care of their own interests misrepresents the actual human condition, which is one of universal vulnerability to physical harm, social exclusion, and economic privation. Law's task, on Fineman's analysis, is not merely to remove discriminatory barriers but to create the conditions, what she calls "resilience," that enable persons to withstand the inevitable vulnerabilities of social life. Applied to Bangladesh, vulnerability theory implies that genuine gender equality in political participation requires not merely removing formal barriers but creating the positive conditions that build women's political resilience: adequate campaign financing accessible to women, security infrastructure that protects women candidates from harassment and violence, childcare and family support structures that make political careers compatible with women's family responsibilities, and party organizational cultures that actively develop rather than exploit women's political capacities.

Jurgen Habermas and the Structural Conditions of Gender-Inclusive Discourse

Habermas's discourse ethics, examined in Part Two in the context of the quality of Bangladesh's public sphere generally, has a specific gender dimension that his later work, particularly "Inclusion of the Other" (1996), develops explicitly. Habermas argues that the legitimacy of norms generated through communicative discourse depends on the genuine inclusion of all affected parties in the deliberative process. Gender-based exclusion from deliberation, whether through structural barriers to women's participation in formal political institutions or through cultural norms that devalue women's contributions to public discourse, undermines the legitimacy of the norms that deliberation produces.

The specific application to Bangladesh's constitutional reform process is pointed. If the National Consensus Commission, as The Diplomat notes, "was lack of women representation," and if the discussions surrounding women's reserved seats in the July Charter were conducted primarily by men, then the legitimacy of the Charter's provisions on women's representation is compromised precisely because those provisions were determined without adequate participation by the women most affected by them. This is not merely a procedural point: it reflects Habermas's substantive insight that norms produced without genuine inclusion of affected parties tend to reflect the interests and perspectives of those who dominated the deliberative process rather than the genuine concerns of all stakeholders.

The feminist critique of Habermas, most powerfully articulated by Nancy Fraser in "Rethinking the Public Sphere," holds that Habermas's idealized conception of deliberative discourse ignores the ways in which existing social inequalities shape who can participate in deliberative processes, how their contributions are valued, and whose concerns are treated as legitimate subjects of public debate. Fraser argues that genuine inclusion requires not merely opening formal deliberative spaces to previously excluded groups but actively addressing the social conditions that make their participation substantively unequal even when it is formally permitted.

Applied to Bangladesh, Fraser's critique implies that nominal inclusion of women in the constitutional reform process, for example through token appointments to reform commissions, is insufficient if women's contributions are systematically discounted, if the agenda is set by male leaders whose priorities differ from women's, or if deliberative norms favor the assertive, adversarial style of public argument that is socially coded as masculine in Bangladeshi cultural context.

CHAPTER THIRTY-THREE: RUMEEN FARHANA AS GENDERED POLITICAL ACTOR

The Biography of an Exceptional Individual and Its Structural Lessons

Farhana's career, examined throughout this textbook as an illustration of political integrity and its limits, requires in Part Four a more specifically gendered analysis that situates her exceptional individual trajectory within the structural conditions that make it exceptional. Her status as one of seven directly elected women in a 300-seat parliament, as the only woman expelled from BNP who then won as an independent, and as the most consistently vocal woman voice in Bangladeshi political discourse on constitutional questions, is not primarily a story about individual talent, though she clearly possesses considerable talent. It is primarily a story about the structural conditions that simultaneously create space for exceptional individual women and systematically exclude the vast majority of women from equivalent spaces.

The Global Voices interview of March 2026, which provides the most extensive and candid account of Farhana's own analysis of her political situation, is worth examining at length for what it reveals about the structural conditions she articulates. Her description of Bangladesh as having "an insane level of misogyny embedded in our collective unconscious" despite decades of female political leadership is an explicit recognition that the dynastic feminism paradox identified in Chapter Thirty-One is real and persistent. Her observation that "we are ready to see strong women as daughters or sisters, but not as partners in change" identifies precisely the mechanism through which the "obedient girl" stereotype that she references operates in political life: women are accepted in familial roles of support and nurturance but resisted in autonomous roles of leadership and challenge.

Her account of the constituency allocation dispute that led to her BNP expulsion is, on careful reading, an account of a structural injustice rather than merely a personal grievance. She had been promised the Brahmanbaria-2 nomination for 2026 in exchange for standing aside in 2018. The Home Minister had confirmed the Chairman's commitment. Then "everything changed." Her analysis of why it changed connects the specific instance to the structural logic: "In Bangladesh, major political parties largely operate on two things: money and sycophancy. If you can provide both, your nomination is secure. I had neither." This is not simply an observation about Farhana's personal financial situation. It is a structural analysis of the nomination process in which women are systematically disadvantaged, because the money and organizational connections that secure nominations are themselves products of the political patronage networks that have historically excluded women.

Her specific description of BNP leadership's approach after her victory becomes inevitable, in which they suggested "it would be good to sit together and even hinted that I could get something bigger than an MP post," is an illustration of how political organizations attempt to domesticate independent women's political agency after the fact: having failed to exclude her from parliament, the party attempted to reincorporate her as a client of leadership patronage rather than as an autonomous political actor with her own constituency mandate. Farhana's refusal to be reincorporated in this way, maintaining her independence even at the cost of continued conflict with the party whose political tradition she still broadly supports, reflects precisely the kind of political vocation that Weber identified in Part Two: commitment to a cause over organizational loyalty.

The Legal Dimensions of Her Campaign

The constitutional and legal dimensions of Farhana's independent candidacy deserve attention that they have not yet received in this textbook. Independent candidates in Bangladesh operate under the Representation of the People Order 1972 (RPO), as amended, which sets out the conditions for candidacy, the procedures for nomination, and the electoral symbols available to independent candidates. The duck symbol that Farhana adopted was assigned through the Election Commission's process for allocating symbols to candidates who cannot use party symbols. Her use of the symbol as a piece of political theater, connecting it to the Adviser Asif Mahmud controversy about duck meat dining, represents the kind of creative political communication that is formally consistent with RPO requirements while exploiting their cultural resonances in ways that demonstrate sophisticated political judgment.

The RPO's requirements for independent candidacy, including deposit requirements that function as a financial barrier to participation, disproportionately affect women candidates who typically have less access to campaign financing than male counterparts. This is a recognized structural barrier in electoral law globally, and the reform proposals advanced by feminist electoral law scholars, including Drude Dahlerup and Lenita Freidenvall in their work on electoral gender quotas, typically include provisions for campaign financing support for women candidates as a necessary complement to quota systems, since quotas without financing support simply expose women candidates to competition for which they are structurally under-resourced.

The specific legal provision that made Farhana's independent candidacy possible despite the BNP's organizational opposition was the fundamental right of citizens to contest elections, protected by Article 66 of the constitution (which sets out the qualifications for election as a member of parliament and does not include party membership as a qualification) and by the broader framework of the right to political participation protected under Article 25 of the ICCPR. The BNP's ability to expel her from party membership but not to prevent her from contesting the election reflects this constitutional framework, which treats political party membership as a private associational matter rather than as a prerequisite for the exercise of the public right to seek elected office.

The post-election contact by BNP leadership, and the hint of "something bigger than an MP post," is also worth analyzing from a legal perspective. Political patronage offers made to elected officials who are nominally independent raise questions about the boundaries of legitimate

political negotiation and the potential corruption of the electoral mandate. If a political party offers specific government appointments or other benefits in exchange for an independent MP's alignment with the party, this is formally legal under Bangladeshi law but raises concerns about the integrity of the independent mandate that the voters gave the MP. Farhana's public disclosure of the contact, which she chose to make rather than to keep private, reflects both political transparency and an awareness that the post-election overture was itself a political communication that deserved a public response.

Her Advocacy for Women's Reserved Seats: The Direct Election Proposal

Farhana's advocacy for direct elections to women's reserved seats, articulated in her statements to Pressenza in March 2026 and reinforced by her broader commentary on women's political participation, represents the most specific and technically developed constitutional reform proposal among our seven subjects on the gender equality question. The proposal deserves examination both on its theoretical merits and in comparison with the alternatives that the global debate on electoral gender quotas has developed.

The current system of reserved seats in Bangladesh, as noted throughout this textbook, allocates fifty seats to women through a proportional party-allocation mechanism: after the general election, each party receives a share of the fifty women's seats proportionate to its share of directly elected seats. Party leaders then designate which women will fill those seats. The problems with this mechanism are multiple and well-documented. It rewards party loyalty rather than political competence or constituency service. It creates women MPs who are accountable to party leaders rather than to voters, undermining the representative function of parliamentary democracy. It discourages women from building independent political bases, since the path to parliament through reserved seats runs through party leadership favor rather than through direct voter engagement. And it produces women MPs who, in many cases, are less politically experienced and less institutionally supported than directly elected MPs, reinforcing the informal hierarchy between "real" (directly elected) and "designated" (reserved seats) MPs.

The direct election alternative that Farhana proposes would replace the party-allocation mechanism with a competitive electoral process in which women candidates contest for the fifty reserved seats through direct vote. The specific design of such a mechanism could take various forms: a single national constituency in which all fifty women's seats are contested proportionally; state or divisional constituencies in which reserved seats are distributed across geographic units; or a mixed system combining some reserved seats with party allocation and others with direct election. Each design has different implications for the representativeness, geographical distribution, and institutional strength of women MPs.

The comparative evidence on direct versus allocated reserved seats is instructive. Rwanda, which has the world's highest proportion of women in parliament, uses a reserved seats mechanism in which women contest for reserved seats in specifically designated constituencies. The result, combined with Rwanda's quota requirements for party candidate lists, is a parliament that is approximately 61 percent women, a figure that represents genuine substantive representation rather than token participation. The mechanism's success in Rwanda reflects several enabling conditions: a post-genocide constitutional redesign that was explicitly committed to transforming

gender power relations, significant international and civil society support for women's political advancement, and sustained political leadership commitment to implementation.

Bangladesh's conditions are considerably less favorable than Rwanda's, which is itself a cautionary note about the limits of constitutional design without accompanying changes in political culture. Even if direct elections to reserved seats were enacted as a constitutional amendment, the conditions that systematically disadvantage women in competitive elections, including campaign financing disparities, safety concerns, social stigma, and party organizational discrimination, would still operate. The reform's value would therefore depend on its being accompanied by the enabling conditions that competitive election requires: adequate public campaign financing for women candidates, security protections against harassment and violence, media obligations to give women candidates equitable coverage, and party candidate preparation programs that actively develop women's political capacities rather than relying on self-selection.

The political economy of the direct election reform proposal is challenging. Male party leaders, who currently benefit from the ability to award reserved seats as patronage to loyal women supporters, have obvious organizational incentives to resist a reform that would reduce their control over those seats and create independent women MPs who might challenge rather than reinforce internal party hierarchies. This is precisely the dynamic that Michels's iron law of oligarchy predicts: organizational leaders use their control of resources, including candidate selection mechanisms, to perpetuate their own power, and reforms that threaten this control face internal organizational resistance even when they are publicly acknowledged as desirable.

The reform's best chance of success is precisely the political moment that Farhana's own election illustrates: the demonstrated capacity of women candidates with genuine constituency relationships to win competitive elections despite party organizational opposition builds the political argument that women's political participation can be autonomous and effective, and therefore that reform of the nomination mechanisms would produce more politically capable women MPs rather than fewer. If Farhana's victory as an independent, winning by 38,000 votes against organizational opposition, had been replicated across multiple constituencies, the political case for reforming the candidate selection system would be considerably stronger. The fact that she was one of only seven directly elected women, despite the unprecedented political moment of the 2026 elections, suggests that the structural barriers remain formidable even in the most favorable political conditions Bangladesh has seen in a generation.

CHAPTER THIRTY-FOUR: THE STRUCTURAL POLITICS OF THE BAR

Gender and the Legal Profession in Bangladesh

The legal profession in Bangladesh, from which five of our seven subjects derive their formal professional identity and status, reflects and reproduces the gender inequality of the broader political culture in ways that are both similar to and distinct from gender inequality in other professional contexts. Understanding the specific gender dynamics of the Bangladeshi bar is essential both for evaluating the careers of Farhana and others within it and for assessing the

profession's capacity to contribute to the broader project of gender equality that the post-August constitutional reform agenda contemplates.

The formal structure of the Bangladesh Bar Council, examined in Part One, does not explicitly discriminate against women. Women can and do sit the Bar Council's qualifying examination, practice before all levels of the Bangladeshi courts, and in principle compete for leadership positions in bar associations. The proportion of women enrolled as lawyers has been increasing over the post-independence period, reflecting both the expansion of women's access to higher education generally and the specific appeal of legal practice as a profession that offers intellectual engagement, financial reward, and social status. The University of Dhaka's law faculty, the most prestigious domestic law program, has seen substantial increases in women's enrollment.

But the formal non-discrimination of the bar's enrollment structure coexists with substantial informal gender inequality in the distribution of professional opportunities, remuneration, and institutional recognition. The chambers and practices of senior advocates, particularly those with Supreme Court practice, remain predominantly male. The appointment of women to senior judicial positions has been extremely slow: there have been very few women judges of the High Court Division, and none has yet served as Chief Justice. The bar association leadership structures, both at the national Bangladesh Bar Council level and in the district and Supreme Court Bar Associations, have been overwhelmingly male.

The sociological analysis of professional gender stratification is directly relevant here. Joan Acker's theory of "gendered organizations," developed in her 1990 article "Hierarchies, Jobs, Bodies: A Theory of Gendered Organizations," argues that ostensibly neutral organizational structures are in fact gendered in ways that systematically advantage men. The formal requirements of professional success in any organization, including legal practice, are typically defined in terms that reflect the social organization of men's professional lives rather than women's: sustained commitment of continuous hours during prime working years; the cultivation of social networks through leisure activities, including late-evening socializing, that are less accessible to primary caregivers; mentoring relationships that are structured around social comfort between senior and junior members of the same gender; and the institutional culture of "face time" that equates professional dedication with physical presence rather than productivity. All of these are features of legal practice in Bangladesh as in most other professional legal environments, and all systematically disadvantage women.

The specific culture of court advocacy in Bangladesh adds additional gender-specific barriers. The adversarial culture of the courtroom, with its emphasis on aggressive cross-examination, confrontational argument, and the performance of authority before hostile audiences, is culturally coded as masculine in ways that create social pressure on women advocates to either conform to a style that violates gender expectations or perform their gender in ways that diminish their professional authority. The judicial culture, in which older male judges respond to advocates in terms shaped by gender expectations, adds another layer: a woman advocate who is assertive may be perceived as aggressive in ways that damage rather than advance her client's case.

The specific professional histories of Farhana and Andaleeve Rahman within the bar are illustrative. Farhana's legal practice as a barrister of Lincoln's Inn, specializing in the High Court, represents the kind of professional credential that should command institutional respect. Her subsequent career as a parliamentary advocate, using legal argumentation in the political rather than the court context, reflects a choice to deploy her legal skills where they had more immediate political impact. Rahman's practice before the Supreme Court and his role as Principal of the British School of Law represent a different version of legal professional identity that combines courtroom practice with institutional development. Both trajectories demonstrate that legal training at the highest level is a path open to women in Bangladesh, while the overall gender statistics of the profession demonstrate that this path is far more accessible to women with the exceptional combination of social capital, international education, and personal determination that Farhana and others with similar trajectories represent.

The reform of legal professional culture to create more equitable conditions for women's practice requires attention to multiple dimensions simultaneously: the mentoring structures through which junior practitioners develop their skills and networks; the scheduling norms of court practice, which particularly disadvantage primary caregivers; the culture of bar association elections, which currently operates through male-dominated social networks; and the implicit gender norms of the courtroom culture itself. None of these can be addressed by formal rule changes alone, though rule changes can create conditions that support cultural change: a bar council that formally commits to gender parity in its leadership bodies creates a structural incentive for the social networks that support women's advancement to develop, even if the formal rule alone does not generate that development automatically.

The Lawyer-Politician Hybrid and Its Gender Dimensions

The specific professional identity of the "barrister-politician" that defines five of our seven subjects creates gender-specific challenges and opportunities that are worth analyzing in their own right. For a woman who is both a barrister and a political figure, the two professional identities interact in complex ways. The barrister identity provides a form of professional authority and intellectual credibility that is not dependent on party organizational support, which is a potential resource for women who, like Farhana, find themselves in conflict with party hierarchies. The political identity provides a public platform and a constituency relationship that reinforces the barrister's authority in ways that purely private legal practice does not.

But the combination also creates unique vulnerabilities. A woman barrister-politician who challenges powerful interests, as Farhana has consistently done in both her legal and her political roles, faces the intersection of misogynistic and partisan attacks that are specifically directed at undermining her dual authority. The Hasnat Abdullah "BNP's Awami League affairs secretary" comment, examined in Part Two, deployed a gendered insult (implying that a woman politician is covertly loyal to the wrong men) alongside a partisan attack. The social media response to Farhana's own aggressive response, the condemnation of her use of a Bengali pejorative, illustrates the double standard that women in public life routinely face: the same rhetorical aggression that is tolerated or even admired in men is condemned as unseemly or unfeminine in women.

The internet harassment dimension of women's political participation in Bangladesh is a specific concern that the legal framework of the DSA and CSA addresses inadequately. Research on online harassment of women politicians across multiple countries documents a consistent pattern in which women who engage in political discourse online face qualitatively different and quantitatively greater levels of harassment than men, including specifically gender-based attacks, threats of sexual violence, and coordinated campaigns to silence or discredit them. The Pinaki Bhattacharya video targeting Farhana, with its "Munafiq" (Hypocrite) framing, illustrates how online political commentary can deploy misogynistic cultural codes to undermine women politicians' authority in ways that purely partisan attacks on male politicians do not employ.

The legal framework for addressing online gender-based harassment is underdeveloped in Bangladesh, as it is in most legal systems. The CSA's prohibition of content that "hurts" specific persons includes provisions that could in principle be used against gender-based online harassment, but the history of the DSA and CSA is one in which these provisions have been used primarily to silence critics of power rather than to protect women from harassment. The development of a more specifically targeted legal framework for online gender-based harassment, combined with effective enforcement mechanisms that do not simultaneously threaten legitimate political expression, is a legal reform priority that the post-August constitutional agenda has not adequately addressed.

CHAPTER THIRTY-FIVE: RELIGIOUS MINORITY RIGHTS

The Constitutional Framework and Its Structural Failures

The Legal Architecture of Religious Freedom

The constitutional framework for religious freedom and minority protection in Bangladesh is formally extensive. Article 41 guarantees every citizen the right to profess, practice, or propagate any religion, subject to law, public order, and morality. Article 28 prohibits discrimination on grounds of religion. Article 12, in the original 1972 constitution (subsequently modified), called for the elimination of communalism in all its forms and the abuse of religion for political purposes. The constitution's specific acknowledgment in its 1972 form that Islam is not the state religion, combined with the 1988 Eighth Amendment that made Islam the state religion, creates an ongoing tension between the secular pluralism of the constitution's founding vision and the Islamic state identity established by later amendment.

The formal constitutional protections for religious minorities coexist with a reality of systematic vulnerability that the research basis for this chapter documents with disturbing specificity. The UK Government's June 2025 Country Policy and Information Note on religious minorities in Bangladesh notes that "leaders of religious minority communities claim laws such as the DSA now replaced by the CSA are applied unfairly, to Hindus whereby courts issue harsher penalties against them for posting allegedly derogatory information online than Muslim perpetrators of retaliatory violence." This asymmetry in the application of expression controls reflects a

structural bias in the legal system's treatment of religious expression that goes directly to the heart of the constitutional equality guarantee.

The data on communal violence in the post-August period is both extensive and contested. The Bangladesh Hindu Buddhist Christian Unity Council's report of January 2026 claims 522 communal violence incidents in 2025, resulting in 66 deaths, 28 incidents of violence against women, 95 attacks on places of worship, and 102 attacks on homes and businesses. The interim government's own figures acknowledge only 71 incidents with communal motivation out of 645 total incidents involving minorities, characterizing the remainder as non-communal. The definitional dispute at the heart of this discrepancy, the government's exclusion of killings, rapes, and arson from the "communal" category unless they occur inside temple premises, reflects exactly the kind of definitional manipulation that structural minority discrimination typically employs: by defining communal violence narrowly, the government can minimize the official scale of the problem while the violence continues at its actual scale.

The OHCHR's characterization of the violence as motivated by "religious and ethnic discrimination, revenge against Awami League supporters, local communal disputes over land and interpersonal issues" provides a more nuanced but ultimately more troubling picture. The intertwining of religious targeting with political revenge (since many Hindus were Awami League supporters) and with land and interpersonal grievances reflects the complex multi-causality of communal violence in Bangladesh, in which religious identity functions as a marker of political and social vulnerability that makes certain communities disproportionately susceptible to violence triggered by multiple different motivations. The legal challenge is that a justice system that treats each incident of violence separately, as a discrete crime with individual perpetrators and victims, misses the structural pattern that the aggregate data reveals.

The Human Rights Congress for Bangladesh Minorities' January 2026 report of 116 minority citizens killed in the seven months from June 2024 through January 2026, across all eight administrative divisions, represents the most comprehensive human rights documentation of the post-August violence's scale. The geographic spread across all eight divisions, and the temporal continuity across what should have been three distinct political periods (the final Hasina period, the interim government period, and the pre-election period), suggests a pattern of violence that is structural rather than conjunctural, rooted in the long-term conditions of minority vulnerability rather than in the specific political circumstances of any particular period.

The Vested Property Act Legacy

The deepest structural source of Hindu minority vulnerability in Bangladesh is the legacy of the Vested (Enemy) Property Act, originally enacted in 1965 as the Enemy Property Act during the Indian-Pakistani tensions and renamed the Vested Property Act after 1971. This legislation, which allowed the government to designate property as belonging to "enemies of the state" and to take it over, was applied systematically against Hindu property owners in Bangladesh, who were identified with India (perceived as the "enemy" from the Pakistani perspective) and whose property became available for seizure under the Act's provisions.

The Vested Property Act's consequences for the Hindu community's demographic decline in Bangladesh are well-documented by Minority Rights Group International: the Hindu population declined from over 22 percent at independence to approximately 8.5 percent today, a decline driven substantially by land confiscation, the threat of further confiscation, and the violence that accompanied the uncertainty of property rights. The Vested Property Return (Repeal) Act of 2001 formally repealed the Enemy/Vested Property Act and established a framework for returning confiscated properties, but implementation has been deeply inadequate, with the return process stalled by bureaucratic obstruction, political resistance from those who benefit from current occupation of former Hindu property, and judicial proceedings that are vulnerable to the same executive influence that affects other politically sensitive litigation.

The jurisprudential dimensions of the Vested Property Act's legacy connect to the theories of property rights and their relationship to citizenship that John Rawls, Robert Nozick, and more recently Jeremy Waldron have explored. Nozick's libertarian entitlement theory, in "Anarchy, State, and Utopia," holds that property rights are historically grounded: the justice of current property distributions depends on whether they were acquired through just initial acquisition and just transfer, and unjust acquisitions create obligations of rectification. On Nozick's framework, the seizure of Hindu property under the Vested Property Act was unjust, and the current occupants of that property have no legitimate claim against the original owners' heirs. The failure of the Vested Property Return process is therefore not merely a policy failure but a persistent injustice of the kind that Nozick's framework would require the state to rectify.

Waldron's engagement with rectification obligations in "Superseding Historic Injustice," while developed in a different context, provides a more nuanced framework that acknowledges the difficulty of rectifying historical injustices when circumstances have changed substantially: when the original victims have died, when their heirs have built lives elsewhere, and when the current occupants have in some cases acquired property through subsequent legitimate transactions. Waldron's analysis suggests that the rectification obligation is genuine but that its specific form must be adapted to current circumstances rather than requiring mechanical reversal of historical transactions. In Bangladesh's context, this suggests that a genuine rectification of the Vested Property Act injustice would require compensation mechanisms, clear adjudication procedures, and protection against future property violations, rather than necessarily a property-by-property return to original Hindu families, many of whom have long since emigrated to India.

None of our seven subjects has publicly engaged with the Vested Property Act question in its full legal and philosophical dimensions, which is itself a revealing silence. The property rights of Hindu minorities are a genuinely significant legal issue that a constitutional lawyer with Manir's expertise in administrative law, or a reform advocate with Fuad's institutional analysis orientation, or a barrister with Farhana's rights advocacy background would be well positioned to address. The silence is partly a product of the political economy of advocacy in Bangladesh, where addressing Hindu property rights directly invites accusations of pro-Indian sentiment that can be politically damaging, and partly a product of the legal culture's tendency to treat communal violence as a political problem rather than a rights violation amenable to legal analysis.

The Chinmoy Krishna Das Arrest and Religious Expression

The imprisonment of Chinmoy Krishna Das, a prominent Hindu leader associated with the ISKCON movement in Bangladesh and the Bangladesh Sammilita Sanatani Jagaran Jote, on charges relating to his public advocacy for Hindu minority rights, became one of the most internationally visible episodes of the post-August period's treatment of minorities. His arrest in November 2024 on sedition charges, the denial of bail, and the subsequent imprisonment generated protests not merely in Bangladesh but internationally, including demonstrations by the Hindu diaspora and expressions of concern from the Indian government.

The legal framework under which Das was prosecuted involved sedition provisions of the Bangladeshi criminal law that have a troubled history as instruments of political repression. The sedition offense in the Bangladeshi Penal Code, derived from section 124A of the Indian Penal Code (itself inherited from British colonial law), criminalizes "whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the government." This provision, as applied in numerous contexts across South Asia and elsewhere, is one of the most widely condemned colonial-era legal inheritances precisely because of its tendency to criminalize legitimate political dissent rather than genuine threats to public order.

The application of sedition law to a religious leader whose public advocacy concerned the rights and safety of his community raises questions that connect directly to the freedom of expression analysis in Part Three and to the minority rights analysis in this chapter. If Das's statements constituted calls for violence or threats to public order, the criminal law application might be justified under international standards that permit restrictions on expression to protect public safety and order. If his statements were advocacy for the protection of constitutional rights to which his community is formally entitled, their criminalization under sedition law represents precisely the kind of selective enforcement of expression controls against minorities that the UK Government's June 2025 report identified as a systematic pattern.

The broader pattern of "the filing of several cases against senior Unity Council leaders, forcing some into hiding," documented in the HRCBM's reporting, and the condemnation by the Bangladesh Hindu Buddhist Christian Unity Council of the "harassment and criminalisation of minority leaders," suggests that Das's case was not an isolated instance of criminal prosecution based on specific illegal conduct but part of a broader pattern of using legal mechanisms to silence minority political advocacy. This is precisely the kind of structural pattern that the critical race theory's counter-storytelling methodology, imported from the American context and adapted for the Bangladeshi situation, would seek to make visible: not as individual cases of prosecutorial excess but as systematic expressions of a legal system that treats minority political advocacy as inherently more threatening to public order than majority political advocacy.

The Blasphemy Problem: Law, Violence, and the Pattern of Persecution

The Human Rights Congress for Bangladesh Minorities' December 2025 report on the "systematic misuse of blasphemy allegations against minority citizens" identifies a specific legal mechanism that has become one of the most dangerous instruments of minority persecution in Bangladesh. The pattern operates as follows: a social media post by a member of a religious minority community, typically a young person, is characterized by local religious leaders or

political actors as "blasphemous" or as insulting to Islam; a crowd is mobilized around the characterization; the minority community is attacked, with homes, temples, and businesses vandalized or destroyed; and the police, rather than protecting the minority community from attack, arrest the person accused of blasphemy, providing a legal framework that legitimizes the mob's grievance while offering no protection to the community that was victimized by the mob's violence.

The Lalmonirhat case of June 2025, documented by HRCBM, in which a 69-year-old Hindu barber was "falsely accused of blasphemy and savagely beaten by a mob," and in which "local police enabled" the violence rather than preventing it, is one documented instance of this pattern. The Rangpur Gangachara case, in which a 17-year-old Hindu boy's arrest over an allegedly blasphemous Facebook post was followed by attacks that "forced scores of Hindu families to flee their homes," is another. The December 2025 case in Bhaluka, Mymensingh, described as "one of the most horrifying acts of communal violence in recent months," in which Dipu Chandra Das, a Hindu garment-factory worker, was targeted through a blasphemy allegation, is a third.

The legal analysis of this pattern reveals multiple failures of legal protection simultaneously. First, the blasphemy-adjacent provisions of Bangladeshi criminal law, including the DSA's (now CSA's) prohibition of content that "hurts religious feelings," provide the legal framing for the accusation even when the underlying conduct is minimal or fabricated. Second, the provisions of the Penal Code dealing with "offences against religious places or practices" (sections 295-298) do not adequately protect minority religious places from mob attacks triggered by blasphemy accusations. Third, the police's failure to protect minority communities during and after blasphemy accusations reflects an institutional culture in which the political consequences of being perceived as protecting "blasphemers" are more feared than the legal consequences of failing to protect victims of mob violence.

The international law framework most directly applicable to this pattern is the ICCPR's combination of Article 18 (freedom of religion and belief), Article 19 (freedom of expression), Article 20(2) (prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence), and Article 2's non-discrimination guarantee. The Human Rights Committee's General Comment 34 specifically states that "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2 of the Covenant." The specific circumstances of Article 20(2) require advocacy of hatred that constitutes incitement to discrimination, hostility, or violence, a considerably higher threshold than "hurting religious feelings" or "insulting" a religion.

Bangladesh's blasphemy-adjacent provisions clearly fail this ICCPR standard, and the pattern of their application against minority community members reveals the structural inequality in their enforcement that the ICCPR's non-discrimination guarantee also prohibits. The reform of these provisions, the development of effective police protection protocols for minority communities facing mob violence, and the prosecution of those who organize or participate in mob attacks on minority communities are all legal reform priorities of the highest urgency. None of our seven subjects has publicly engaged with this specific legal reform agenda in its full scope, which

represents a significant failure of professional responsibility by legal practitioners with the expertise and platform to contribute.

CHAPTER THIRTY-SIX: INDIGENOUS RIGHTS AND THE CHITTAGONG HILL TRACTS

A Constitutional Blind Spot

The indigenous communities of the Chittagong Hill Tracts (CHT) and other parts of Bangladesh represent a dimension of minority rights that is structurally distinct from the religious minority question and that receives even less adequate treatment in the public discourse of our seven subjects. The CHT Peace Accord of 1997, signed between the government of Bangladesh and the Parbatya Chattagram Jana Sanghati Samiti, created a framework for addressing the political status, land rights, and cultural autonomy of the CHT's indigenous peoples, but its implementation has been consistently inadequate and the fundamental question of whether Bangladesh recognizes the CHT's indigenous peoples as having distinct constitutional rights remains unresolved.

The Bangladesh constitution does not use the word "indigenous" to describe any of the country's communities. The 2011 constitutional amendment that introduced Article 23A, providing for the "protection of local cultures," uses the word "tribes, minor races, ethnic sects and communities" rather than recognizing an indigenous rights framework comparable to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which Bangladesh voted in favor of at the UN General Assembly in 2007 but has not incorporated into domestic law.

The practical consequences of this constitutional gap are visible in the continuing land rights crisis in the CHT. The settlement of Bengali Muslims in the CHT by successive governments, continuing despite the 1997 Peace Accord's provisions, has produced systematic displacement of indigenous communities from their ancestral lands. The land rights provisions of the Peace Accord have been inconsistently implemented, and the Land Commission established by the Accord has not effectively resolved the land disputes that are at the heart of the CHT's ongoing conflicts. The September 2025 attacks documented by HRCBM, in which "coordinated attacks in Bangladesh's Chittagong Hill Tracts left indigenous villages in flames, families displaced, and fears of further violence rising," illustrate the continuing physical vulnerability of CHT communities despite the formal peace framework.

The Chakma, Marma, Tripuri, and other CHT peoples have a specific relationship to international indigenous rights law that gives their claims a dimension not shared by Bangladesh's religious minorities. UNDRIP's Articles 3 and 4 recognize indigenous peoples' right to self-determination, including autonomy in internal and local affairs. Article 26 recognizes indigenous peoples' rights to the lands, territories, and resources that they have traditionally owned, occupied, or used. Article 8 prohibits actions that destroy or damage the culture, values, or ethnic identity of indigenous peoples. These international law provisions provide a framework for indigenous rights claims that goes considerably beyond the general

religious and ethnic non-discrimination guarantees applicable to Bangladesh's religious minorities.

The application of UNDRIP standards to the CHT situation would require Bangladesh to recognize CHT indigenous communities' collective rights to their traditional territories, to ensure that any changes to those territories occur only with free, prior, and informed consent (FPIC), and to provide effective remedies for the land dispossession that has occurred. None of these requirements is currently being met, and the post-August constitutional reform agenda has not addressed the CHT rights question with the seriousness that the international law framework requires.

Manir's practice in administrative and constitutional law positions him best among our seven subjects to engage with the CHT rights question, since the specific legal mechanisms for challenging land dispossession and enforcing Peace Accord provisions are primarily administrative and constitutional in character. His silence on the CHT issue in his public advocacy is therefore particularly notable: a constitutional lawyer committed to the rule of law and to the enforcement of constitutional obligations should be as interested in the government's non-compliance with the CHT Peace Accord's constitutional implications as in the government's non-compliance with the Masdar Hossain directives on judicial independence.

CHAPTER THIRTY-SEVEN: THE AHMADIYYA QUESTION AND THE JURISPRUDENCE OF RELIGIOUS IDENTITY

Non-Recognition, Persecution, and the Limits of Tolerance

The Ahmadiyya Muslim community in Bangladesh, numbering approximately 100,000 persons, occupies a distinctive and deeply vulnerable position in the country's religious landscape. Ahmadis consider themselves Muslims and follow a religious tradition that emerged in nineteenth-century Punjab under the leadership of Mirza Ghulam Ahmad, whom they regard as a prophet. Mainstream Sunni Islam rejects this claim, holding that Muhammad was the last prophet (Khatam an-Nabiyyin), and therefore considers the Ahmadiyya claim to prophethood blasphemous and Ahmadis as non-Muslims. Several Muslim-majority countries, most prominently Pakistan, have enacted legislation formally declaring Ahmadis to be non-Muslims and criminalizing their self-identification as Muslims or their practice of Islamic worship.

Bangladesh has not enacted formal anti-Ahmadiyya legislation comparable to Pakistan's Second Amendment, but Ahmadis face systematic discrimination and periodic violence that reflects the broader social exclusion that characterizes their situation in the absence of legal recognition. The March 2023 attack during the annual Jalsa Salana meeting, referenced in the USCIRF 2025 Factsheet, represents a pattern of attacks on Ahmadiyya gatherings that dates back decades. In September 2024, Ahmadiyya leaders "accused Islamist mobs of attacking members of their community, including several attacks on mosques," in the immediate post-uprising period that also saw extensive violence against Hindu communities.

The jurisprudential question raised by the Ahmadiyya situation is one of the most philosophically complex in the religious freedom literature: the question of who defines religious identity, and whether the state can adopt a majority religious community's definition of religious membership as the basis for legal distinctions. Article 41 of the Bangladesh constitution guarantees the right to profess, practice, or propagate "any religion," and in principle this protection extends to Ahmadis' self-identification as Muslims and their practice of Islamic worship. But if the state, through executive action or legislative omission, effectively treats Ahmadis as non-Muslims for the purposes of anti-discrimination protection or as legitimate targets of mob violence without adequate criminal law protection, the formal constitutional guarantee is rendered substantively hollow.

The philosophical distinction between "thin" and "thick" religious tolerance is relevant here. "Thin" tolerance, in the tradition of John Locke's "Letter Concerning Toleration," requires only that the state refrain from active persecution of religious minorities; it does not require positive affirmation of minorities' religious identities or practices. "Thick" tolerance, in the tradition developed by contemporary political philosophers including Will Kymlicka and Charles Taylor, requires not merely non-persecution but active accommodation of religious minorities' cultural identities in ways that enable them to participate fully in social life. On the thin tolerance standard, Bangladesh's formal constitutional protections for Ahmadis might be considered adequate in the absence of formal anti-Ahmadiyya legislation. On the thick tolerance standard, the systematic failure to protect Ahmadis from mob violence, the social exclusion they experience, and the absence of positive state support for their capacity to practice their religion in conditions of safety represents a fundamental failure of the tolerance principle.

Taylor's concept of "the politics of recognition," developed in his 1994 essay "The Politics of Recognition," argues that the misrecognition or non-recognition of a community's identity constitutes a genuine injury that goes beyond the material harms of discrimination: it damages the community's self-understanding and its capacity to participate in social life on equal terms. The Ahmadiyya community's situation in Bangladesh is a textbook illustration of Taylor's insight: not merely the material injuries of violence and discrimination but the fundamental non-recognition of their religious identity and dignity by both the state and large segments of the majority population constitutes an ongoing harm that the constitutional equality guarantee should address and currently does not.

CHAPTER THIRTY-EIGHT: THE SEVEN SUBJECTS AND MINORITY RIGHTS

Positions, Silences, and the Political Economy of Advocacy

The analytical pattern identified in the conclusion of Part Three, in which each subject is more sophisticated in identifying the constitutional failures of their opponents than in acknowledging those within their own political tradition, applies with particular force to the question of minority rights. The political incentives for addressing minority rights are structurally unfavorable for politicians and lawyers operating within the major party political system: constituencies that include conservative Muslim voters are sensitive to any perceived "pro-minority" positioning,

and the accusation of Indian influence (connecting minority advocacy to Indian state interests in Bangladesh's Hindu minority) is a political attack that can damage any career. The result is that even figures with strong formal commitments to constitutional equality, such as all seven of our subjects, tend to address minority rights primarily through general constitutional language rather than specific advocacy on the concrete issues of communal violence, blasphemy abuse, and property rights that affect minority communities most directly.

Farhana: The Strongest Record, Still Insufficient

Farhana's record on minority rights is the strongest among our seven subjects, but it remains insufficient relative to the scale and urgency of the problem. Her consistent invocation of constitutional equality provisions, her resistance to the use of religion as a political weapon, and her rejection of what she describes in the Global Voices interview as "identity politics" and "hollow nationalism as a tool" all reflect a principled orientation against the communal politics that generates minority persecution. Her statement that she has "never weaponized religion for political gain" is a form of political autobiography that, if accurate, distinguishes her from a substantial proportion of Bangladeshi politicians in both major parties.

But the specific advocacy that would constitute genuine minority rights engagement is largely absent from her public record. There is no evidence of public statements addressing the Chinmoy Krishna Das imprisonment specifically, or the pattern of blasphemy-triggered communal violence specifically, or the Vested Property Act's continuing legacy specifically. Her advocacy for institutional reform and against corruption is framed in terms that apply universally across communities rather than in terms that specifically address the distinct vulnerabilities of minority communities. This is a form of formal equality approach, addressing all citizens through the same structural reforms, rather than a specific minority rights approach that recognizes that minority communities face qualitatively different and more severe forms of vulnerability that require targeted remedies.

Manir: The Jamaat Question and Its Minority Rights Implications

Manir's representation of Jamaat-e-Islami in the party registration case, examined in depth in Part Three, has specific minority rights implications that Part Four is in a better position to address. Jamaat-e-Islami's ideological tradition, including its 1971 collaboration with the Pakistani military against the Bengali independence movement and the specific atrocities committed by the al-Badr and al-Shams forces associated with Jamaat against Hindu communities and secular intellectuals, creates a historical context in which the party's restoration to electoral registration carries specific minority rights significance that goes beyond the abstract constitutional question of party registration rights.

The fundamental tension is between two genuine constitutional values: the right to political party participation, which Manir's constitutional argument defends, and the protection of minority communities from political forces whose ideological tradition has included systematic violence against them. The German constitutional tradition's resolution of this tension, through the explicit provision for party bans where parties threaten the "free democratic basic order," is one approach; the American tradition's almost absolute protection of political speech and association

is another. The Bangladeshi constitutional approach, as articulated by the Appellate Division's June 2025 ruling, leans toward the American extreme of very broad party rights protection, but without the accompanying speech freedom protections that make American civil libertarianism coherent as a system.

The uncomfortable truth is that the restoration of Jamaat's electoral registration, whatever its constitutional justification, has been accompanied by deteriorating conditions for minority communities in Bangladesh. The correlation is not necessarily causal: the post-August violence against minorities has multiple causes, and Jamaat is one political actor among many. But Jamaat's record, including the Ameer's statement that "no woman can rise to the party's top leadership" that Farhana quotes in the Global Voices interview, and the party's fielding of zero women candidates in the 2026 elections, demonstrates a political culture that is fundamentally at odds with both gender equality and the kind of religious pluralism that minority communities require. A constitutional lawyer whose advocacy enables Jamaat's political participation without publicly acknowledging and addressing these tensions is not exercising the intellectual honesty that constitutional advocacy at its best requires.

Fuad: Systemic Analysis, Minority Blind Spots

Fuad's institutional analysis of Bangladesh's governance failures, examined throughout this textbook, is systematically applied to the general institutional architecture rather than to the specific institutional failures that affect minority communities. His reform charter proposals, his advocacy for proportional representation in the upper house, and his criticism of political patronage systems are all framed in terms that apply across the political system regardless of the specific communities most affected by its failures. This universalist framing is in one sense admirable: it avoids the communitarian politics of mobilizing one group against another. But it also means that Fuad's analytical framework does not produce specific proposals for the legal and institutional reforms that minority communities most urgently need.

The Ahmadiyya community's vulnerability to mob violence, the CHT indigenous peoples' continuing land rights crisis, and the Hindu community's exposure to blasphemy-triggered persecution are not adequately addressed by general institutional reforms that improve the efficiency and accountability of government without specifically targeting the structural conditions of minority vulnerability. A genuine commitment to the rule of law in Bangladesh requires not merely institutional reform in the abstract but institutional reform that specifically addresses the ways in which the legal system's failures fall most heavily on those with the least political power to demand protection.

Hajjaj: Education and the Possibilities of Systemic Reform

Hajjaj's appointment as State Minister of Primary and Mass Education creates a specific opportunity and responsibility in relation to the religious minority question that his early ministerial conduct will reveal as either genuine or nominal. Bangladesh's primary education system includes both government primary schools and registered madrassas, with the madrassa sector serving a substantial proportion of students from conservative Muslim families. The curriculum content of government primary schools, and its relationship to religious education

and to the values of religious pluralism and constitutional equality, is a policy question of direct relevance to the conditions under which minority communities experience their citizenship.

Research across multiple countries has documented the connection between civic education content and citizens' attitudes toward minorities: education systems that explicitly teach constitutional equality values and expose students to the perspectives and histories of diverse communities tend to produce more tolerant adult citizens than education systems that either ignore minorities or present them through negative stereotypes. The specific content of Bangladesh's primary school curriculum, including both its formal civic education components and its implicit values regarding religious diversity and the constitutional equality of all citizens, is therefore a policy lever for the long-term development of the social conditions that minority protection requires.

Hajjaj's reform agenda for the Ministry, insofar as it is yet visible, has focused primarily on administrative reform, teacher training, and infrastructure improvement rather than on curriculum content. But the curriculum question is a central one for the kind of structural change that his reform positioning implies. An education minister committed to genuine institutional reform in Bangladesh would eventually need to engage with the question of what primary education teaches children about their fellow citizens from different religious and ethnic backgrounds, and whether that teaching adequately reflects the constitutional equality principle that all parties formally accept.

CHAPTER THIRTY-NINE: THE ANTI-DISCRIMINATION BILL AND LEGISLATIVE REFORM

A Pending Framework for Substantive Equality

The draft Anti-Discrimination Bill, referenced in the UK Government's June 2025 Country Policy and Information Note, represents the most significant pending legislative development on the structural equality question in Bangladesh. The draft bill would "outlaw discrimination on various grounds, including gender, religion, ethnicity, place of birth, caste, and occupation, and also introduce a complaints mechanism for victims of discrimination to seek remedies." The observation that "the draft Anti-Discrimination Bill has still not been enacted into law" reflects the persistent gap between formal policy commitments and legislative action that characterizes Bangladesh's approach to minority rights more generally.

The theoretical framework for anti-discrimination legislation has been developed most fully in the UK and EU contexts, where the Equality Act 2010 (UK) and the Employment Equality Framework Directive (EU) provide models of comprehensive legislative equality frameworks that go beyond formal non-discrimination to include obligations on employers, service providers, and public authorities to make reasonable accommodations for protected characteristics and to take positive steps to advance equality. The key innovation of the UK Equality Act's "public sector equality duty," which requires public authorities to have "due regard" to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between

persons with different protected characteristics, is particularly relevant to Bangladesh's situation: a comparable provision would require government ministries, courts, police forces, and other public authorities to actively consider the equality implications of their policies and practices rather than merely refraining from explicit discrimination.

The application of an anti-discrimination framework to the specific areas of minority rights concern identified in this chapter would require several specific provisions that are not yet publicly described as being in the draft bill. A provision addressing the discriminatory application of blasphemy-adjacent laws against minority communities, combined with effective enforcement mechanisms, would address one of the most systematically documented forms of discrimination. A provision requiring police forces to protect minority communities from communal violence, with sanctions for failure to do so, would address the institutional culture of police non-protection that has been a consistent feature of communal violence episodes. A provision establishing an independent complaints mechanism for victims of discrimination, with powers to investigate and order remedies, would provide the institutional enforcement capacity that formal legal guarantees without enforcement mechanisms lack.

The political economy of anti-discrimination legislation in Bangladesh is challenging for exactly the reasons that the minority rights section of this chapter has identified: legislators from constituencies with conservative Muslim majorities are sensitive to legislation that can be characterized as protecting "blasphemers" or restricting religious expression in ways that benefit minorities at the expense of Muslim rights. The design of legislation that genuinely protects minority communities while respecting majority religious sensibilities, and that is clearly grounded in constitutional equality principles rather than in perceived foreign influence or "anti-Islamic" agendas, requires political craftsmanship as well as legal skill. This is precisely the kind of legislative advocacy in which lawyer-politicians with constitutional expertise, like those among our seven subjects, can make a distinctive contribution, if they choose to deploy that expertise on the minority rights question.

CHAPTER FORTY: INTERSECTIONALITY, MINORITY WOMEN, AND COMPOUND VULNERABILITY

The Most Marginalized Among the Marginalized

The intersectionality framework introduced in Chapter Thirty-Two reaches its most urgent application when examining the situation of women from minority communities in Bangladesh. Hindu, Ahmadiyya, indigenous, and other minority women face the intersection of gender-based discrimination with religious and ethnic minority discrimination in ways that create compound vulnerabilities substantially greater than those facing either women from the Muslim majority or men from minority communities.

The sexual violence dimension of communal attacks on minority communities is a specific and devastating form of this compound vulnerability. The HRCBM's documentation of the June 2025 gang rape in Muradnagar, Cumilla, in which a Hindu woman's assault was recorded and

circulated as what the report describes as "a war trophy," illustrates the specific use of sexual violence against minority women as an instrument of communal terror. Sexual violence against minority women in communal attacks serves multiple strategic functions simultaneously: it harms the specific individual victim, it intimidates the broader minority community, it communicates the majority community's power over minority bodies and spaces, and it generates the kind of shame and trauma that keeps victims from reporting and keeps communities from asserting their legal rights.

The HRCBM's finding of 28 cases of violence against women, including rape and gang rape, within the 522 communal violence incidents documented in 2025, represents a documented minimum that is certainly far below the actual number of cases, since sexual violence is systematically underreported in all contexts and particularly so in communal violence contexts where reporting requires engagement with police forces that have not historically provided adequate protection to minority women.

The legal framework for addressing sexual violence against minority women requires attention to both the general provisions of Bangladesh's criminal law on rape and sexual assault and the specific provisions relating to communal violence. The Women and Children Repression Prevention Act 2000, Bangladesh's primary domestic violence legislation, provides for enhanced penalties for certain offenses but does not specifically address the communal dimension of violence against minority women. The development of provisions that specifically recognize the communal motivation of sexual violence against minority women, making such motivation an aggravating factor in sentencing and triggering enhanced investigative obligations for law enforcement, would address a specific gap in the current legal framework.

Farhana's advocacy for women's safety in politics, while important, does not specifically engage with the qualitatively different safety challenges facing minority women in politics. The tiny number of Hindu, Christian, Buddhist, or indigenous women who have been elected to parliament in Bangladesh's entire post-independence history reflects the compound effect of both gender and minority status as barriers to political participation. An electoral reform agenda that focuses only on increasing women's representation overall without specifically addressing the barriers facing minority women will fail to improve the situation of those at the intersection of gender and minority status in ways that compound their exclusion.

CHAPTER FORTY-ONE: COMPARATIVE ANALYSIS

India, Pakistan, and Sri Lanka: Minority Rights in South Asian Constitutionalism

The comparative analysis of minority rights in South Asian constitutional systems reveals both the shared challenges of the post-colonial constitutional inheritance and the different approaches that different societies have taken to address them, with varying degrees of success. The three most directly relevant comparators for Bangladesh are India, Pakistan, and Sri Lanka, each of which has a different constitutional approach to minority rights and a different record of implementation.

India's constitutional approach is the most comprehensive among the three. The Indian constitution provides not merely formal non-discrimination guarantees (Articles 14, 15, 16) but a set of affirmative minority rights provisions specifically designed to protect religious and linguistic minorities. Article 29 protects the right of minority communities to conserve their distinctive language, script, and culture. Article 30 guarantees minority communities the right to establish and administer educational institutions of their choice, free from governmental interference that might dilute their distinctive character. The Supreme Court's development of these provisions, through cases including T.M.A. Pai Foundation v. State of Karnataka, has created a substantial jurisprudence of minority educational rights that provides a model of constitutional protection going considerably beyond formal equality.

India's minority rights record in practice has been considerably less impressive than its constitutional framework suggests, particularly regarding the Muslim minority in the contemporary BJP-led political environment. But the constitutional framework provides a legal platform that minority communities can and do use to defend their rights, and its existence makes a practical difference even when political conditions are unfavorable. The specific provisions for minority educational institutions have enabled the development of a set of Muslim, Christian, and other minority educational institutions that maintain distinctive cultural identities while meeting educational quality standards, providing a model of cultural accommodation that Bangladesh's more minimalist constitutional approach has not replicated.

Pakistan's constitutional approach to minority rights is the most restrictive in the region, reflecting both the Islamic state identity established by the 1973 constitution and the legal effects of the Ahmadiyya exclusion laws. Pakistan's Second Amendment of 1974 declared Ahmadis non-Muslims, and the Blasphemy Laws of the 1980s (Pakistan Penal Code sections 295B and 295C) make desecration of the Quran or insulting the Prophet offenses punishable by life imprisonment and death respectively. These provisions have been used systematically against minorities, particularly Christians and Hindus, with the well-documented pattern of false accusations being used to settle personal grievances, and they represent the most extreme form of the blasphemy law problem that Bangladesh also faces in a less severe but structurally similar form.

The Pakistani experience demonstrates both the depth of minority vulnerability in Islamic constitutional states and the degree to which constitutional protection of minority rights, once dismantled through formal constitutional amendment, is extremely difficult to restore. No Pakistani government has successfully reformed the Blasphemy Laws despite extensive documentation of their misuse, because the political cost of confronting the religious constituency that defends them is perceived as prohibitive. Bangladesh's current situation, in which similar-but-milder blasphemy-adjacent provisions are being systematically misused against minorities, represents the early stages of a trajectory that Pakistan's experience suggests can become extremely difficult to reverse once the legal and political dynamics of the misuse become entrenched.

Sri Lanka's constitutional approach to minority rights has been shaped by the traumatic experience of a civil war between the Sinhalese Buddhist majority and the Tamil Hindu minority that lasted from 1983 to 2009. The 2021 amendment to the Sri Lankan constitution, while deeply

contested, attempted to address some of the structural dimensions of Tamil exclusion through devolution of power to provincial councils. The post-war reconciliation process, including the Office on Missing Persons and the Office for Reparations, represents an attempt to use transitional justice mechanisms to address the legacy of wartime atrocities. The Sri Lankan experience illustrates both the catastrophic consequences of failing to address structural minority exclusion through legitimate political and legal mechanisms and the difficulty of rebuilding inclusive constitutional governance after a period of mass violence.

Bangladesh's minority rights situation is not comparable in scale or severity to Sri Lanka's civil war experience. But the structural patterns of exclusion, discrimination, and periodic communal violence that characterize Bangladesh's treatment of its religious minorities create the conditions in which more severe conflicts can develop if political and legal responses do not address the underlying vulnerabilities. The post-August constitutional reform agenda represents an opportunity to make progress on the minority rights question that the specific political moment enables, and the failure to take that opportunity would be a missed chance of potentially lasting consequence.

CHAPTER FORTY-TWO: INTERNATIONAL HUMAN RIGHTS LAW ON GENDER AND MINORITY RIGHTS

Treaty Obligations and Their Implementation Gaps

Bangladesh's international human rights treaty obligations on gender equality and minority rights are extensive and, as this chapter has repeatedly demonstrated, extensively unimplemented. Part Three examined the general framework of Bangladesh's ICCPR obligations; Part Four requires specific attention to CEDAW (on gender equality) and to the ICCPR's minority rights provisions (Article 27) as they apply to Bangladesh's specific situation.

CEDAW's General Recommendation 33 (2015) on women's access to justice is particularly relevant to the legal profession and judicial system dimensions of this chapter. The recommendation identifies multiple dimensions of the barriers that prevent women from effectively accessing justice in practice despite formal legal equality: discriminatory laws, lack of legal capacity in some jurisdictions, lack of information about legal rights and remedies, financial barriers to accessing legal representation, geographic barriers to accessing courts, social and cultural barriers that stigmatize women who seek legal remedies, and institutional barriers within legal systems that reflect and reproduce gender bias. Each of these barriers is present in Bangladesh's legal system, and the reform agenda implied by CEDAW General Recommendation 33 goes considerably beyond what either the July Charter or any of our seven subjects' specific proposals have articulated.

The ICCPR's Article 27 specifically provides that "in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." The Human Rights Committee's

General Comment 23 on Article 27 clarifies that this provision creates positive obligations, not merely negative ones: states must take positive measures to ensure that minorities can effectively exercise the rights guaranteed by Article 27, including protection from interference by private actors as well as by the state. Bangladesh's failure to adequately protect Hindu, Ahmadiyya, and CHT indigenous communities from communal violence and persecution therefore constitutes a violation of Article 27 as well as of the general non-discrimination guarantees of Articles 2 and 26.

The UN Special Rapporteur on the Rights of Minorities, whose mandate specifically includes attention to religious minorities and indigenous peoples, has not to this textbook's knowledge conducted a country visit to Bangladesh in the immediate post-August period, which represents a missed opportunity for authoritative independent assessment of the minority rights situation and for engagement with the Bangladeshi government and civil society on the specific reforms required. Engagement with the Special Rapporteur's mandate, and invitation to the Special Rapporteur to conduct a country visit, would be an appropriate initiative for legal actors committed to minority rights, including potentially Manir whose constitutional law practice positions him to engage with international human rights mechanisms.

The UPR Process and Bangladesh's Reform Commitments

Bangladesh's Universal Periodic Review (UPR) process at the Human Rights Council provides another international framework for tracking the implementation of minority rights commitments. Bangladesh's most recent UPR cycle resulted in specific recommendations on religious freedom, women's rights, and indigenous peoples' rights, some of which were accepted and some rejected. The post-August government's UPR submissions, and the implementation of accepted recommendations, will provide a formal accountability framework for assessing progress on these issues.

The UPR process's limitation as an accountability mechanism is the same limitation that applies to most international human rights monitoring: it depends on state willingness to engage honestly and to implement recommendations, and states that are systematically violating minority rights are typically willing to accept formal recommendations in the review process while implementing them inadequately in practice. The most effective international accountability for minority rights violations in Bangladesh is likely to come through the combination of UPR monitoring, CEDAW Committee review, Human Rights Committee individual communications, and the political pressure generated by international civil society attention to specific cases like the Chinmoy Krishna Das imprisonment.

CHAPTER FORTY-THREE: THE STRUCTURAL POLITICS OF THE BAR IN THE POST-AUGUST PERIOD

Institutional Reform, Political Alignment, and the Independence Question

The Supreme Court Bar Association (SCBA) and its political dynamics provide a microcosm of the broader institutional reform challenges examined throughout this textbook. As noted in Part One, bar association leadership elections in Bangladesh follow broadly partisan lines, with the Awami League-affiliated Bangabandhu Ainjibi Parishad and the BNP-affiliated lawyers' front competing for control. The post-August transition has disrupted this binary, creating new organizational dynamics that reflect both the opportunity of the transitional moment and the persistence of the partisan structures that have historically dominated.

The emergence of younger lawyer-politicians associated with the NCP and the AB Party as significant actors in bar association politics represents one of the most structurally interesting developments of the post-August period. The student movement that produced the July uprising had a significant component of law students and young lawyers, and the politicization of that generation through the uprising experience has produced a cohort of legally trained political actors who are less aligned with the traditional binary of Bangabandhu Ainjibi Parishad and BNP's lawyers' front than their predecessors were.

The SCBA's specific institutional role in the judicial independence debates examined in Part Three is significant: the organized bar's position on the Supreme Court Secretariat Ordinance, the Judges Appointment Ordinance, and the other judicial reform provisions of the post-August period is institutionally consequential in ways that individual lawyers' statements are not. A bar association that formally resolves in favor of maintaining the judicial independence provisions, and that organizes collective professional action to enforce that position, exercises institutional power that the government must take seriously in ways that individual protest statements do not require. Manir's call for black-badge protests represents an attempt to mobilize this institutional power; whether it succeeds will depend on the SCBA leadership's willingness to take a formal institutional position and on the profession's solidarity in implementing it.

The broader question of bar association reform, including the democratization of nomination processes, the enforcement of ethical standards against political complicity in legal misconduct, and the development of genuine professional independence norms, connects to all seven of our subjects' professional careers. The legal profession's capacity to contribute to Bangladesh's constitutional development depends not merely on the individual integrity of specific lawyers but on the institutional culture of the profession as a whole. A profession that treats party loyalty as a prerequisite for professional advancement, that tolerates the use of legal proceedings as political weapons without professional condemnation, and that fails to maintain meaningful ethical standards against corruption and abuse will produce generations of lawyers whose professional training is deployed in the service of the political status quo rather than in the service of justice.

The reform of legal professional culture is ultimately a collective action problem of the kind that Mancur Olson analyzed in "The Logic of Collective Action." Individual lawyers who maintain professional independence incur the costs of that independence, including the loss of political patronage and the professional consequences of taking unpopular positions, while the benefits of a more independent profession are distributed across the legal community and society as a whole. This collective action problem can be partially addressed through institutional mechanisms, including bar association rules that enforce ethical standards, independent oversight bodies, and professional education programs that build the commitment to professional

independence as a genuinely internalized value rather than merely an aspiration. Our seven subjects, as senior practitioners and public figures, have both the platform and the professional authority to contribute to this institutional reform, whether or not they consistently exercise it.

CHAPTER FORTY-FOUR: SYNTHESIS AND EVALUATION

Gender, Minorities, and the Structural Conditions of Constitutional Democracy

Part Four's analysis has established several conclusions that build on and extend the analysis of Parts One, Two, and Three.

The first conclusion is structural: the persistence of women's political exclusion and minority rights violations in Bangladesh despite formal constitutional equality guarantees reflects not merely the failure of specific individuals or governments but the operation of structural conditions that formal legal provisions alone cannot change. The nomination processes of political parties, the financial barriers to candidacy, the organizational cultures of courts and bar associations, the patterns of police non-protection for minority communities, and the social norms that stigmatize both women's political agency and minority community advocacy are all structural features of Bangladesh's political and legal landscape that require specifically targeted institutional responses rather than merely the general institutional reforms that the mainstream constitutional reform agenda addresses.

The second conclusion is about the quality of our seven subjects' engagement with gender and minority rights. Their engagement is, with the partial exception of Farhana's gender advocacy, significantly below what their professional expertise and public platforms would enable and their formal constitutional commitments would seem to require. The political economy of advocacy in Bangladesh creates strong incentives against specific minority rights engagement, but the failure to overcome those incentives represents a form of political complicity in the structural conditions that maintain minority vulnerability. The integrity standard applied throughout this textbook demands consistency between principle and practice, and consistent constitutional equality advocacy should include specific engagement with the most vulnerable communities, not merely general institutional reform proposals that happen to benefit all communities equally.

The third conclusion concerns the relationship between gender equality and constitutional democracy more broadly. Research across multiple political systems has consistently demonstrated that societies with higher levels of gender equality in political representation produce better constitutional outcomes: more inclusive political deliberation, more effective representation of the full range of citizen interests, and more durable constitutional settlements that reflect genuinely broad social consensus. Bangladesh's 2.33 percent rate of directly elected women MPs is not merely a gender equality failure; it is a constitutional democracy failure, producing a parliament that represents less than three percent of the population through direct electoral accountability by women, who constitute approximately 50 percent of both the electorate and the population. The constitutional reform agenda should treat gender political parity not as a secondary women's issue but as a primary democratic quality issue.

The fourth conclusion concerns the specific reform priorities that emerge from Part Four's analysis. The most urgent priorities for legal and constitutional reform on gender and minority issues include: direct election to women's reserved seats as a complement to increased quota requirements for party nomination lists; reform of blasphemy-adjacent laws to eliminate provisions that are incompatible with ICCPR standards and that are systematically misused against minority communities; development of specific police accountability mechanisms for failures to protect minority communities from communal violence; enactment of the draft Anti-Discrimination Bill with provisions specifically addressing the compound vulnerability of minority women; implementation of the CHT Peace Accord's land rights provisions through an effective Land Commission process; and engagement with the UN Special Rapporteur on Minority Rights to obtain independent assessment of implementation gaps.

None of these reforms is beyond the technical legal capacity of Bangladesh's legal and political system to design and implement. What has historically been lacking is not technical capacity but political will, which is itself a product of the structural incentives that our seven subjects' careers both reflect and, at their best, attempt to change. The transformative potential of the post-August moment, which has already produced more constitutional self-examination than any previous political transition, will be measured partly by whether it generates durable progress on these specific dimensions of structural inequality, or whether it reproduces the pattern of rhetorical commitment combined with practical inaction that has characterized Bangladesh's approach to gender and minority rights across most of its post-independence history.

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End of Part Four

Part Five: Foreign Relations Law, Sovereignty, and the International Dimensions of Bangladesh's Legal-Political Crisis

Part Six: The New Parliament, Legislative Agenda, and the Constitutional Reform Process

Part Seven: Comparative Perspectives, Theoretical Conclusions, and Assessment of Future Trajectories

PART FIVE: FOREIGN RELATIONS LAW, SOVEREIGNTY, AND THE INTERNATIONAL DIMENSIONS OF BANGLADESH'S LEGAL-POLITICAL CRISIS

PREFACE TO PART FIVE

The analysis undertaken in the first four parts of this textbook has been conducted primarily within the domestic frame of Bangladeshi constitutional law, political jurisprudence, and the specific institutional contests that have defined the post-August 2024 transitional period. That frame is indispensable. The seven figures at the centre of this study are, above all, products of Bangladeshi legal culture, Bangladeshi political conditions, and the specifically Bangladeshi configuration of pressures between law and power. Their controversies are rooted in Dhaka courtrooms, Dhaka streets, and the Bangladeshi parliamentary tradition. Any serious account of their lives and work must be grounded in that domestic specificity.

But the domestic frame, however indispensable, is insufficient. Bangladesh is not, and has never been, a self-contained legal order insulated from the movements of international law, international politics, and the complex pressures that external powers, international institutions, and transnational legal norms exercise upon domestic legal systems. Every significant crisis in Bangladeshi constitutional history has had an international dimension. The Liberation War of 1971 was fought as much in the diplomatic corridors of the United Nations, the capitals of superpowers, and the refugee camps of West Bengal as it was fought on the battlefields of East Pakistan. The various coups and authoritarian episodes of the subsequent decades drew sustenance from, or were constrained by, the positions of donor governments, multilateral financial institutions, and regional powers. The student uprising of July and August 2024 attracted immediate international attention, with United Nations officials demanding investigations into the deaths of protesters, Western governments signalling disapproval of the

crackdown, and India's decision to receive Sheikh Hasina as a refugee becoming one of the most diplomatically consequential choices in the subcontinent's recent history.

The seven figures examined in this textbook have each had to navigate the intersection of domestic legal and political action with international dimensions that they did not always fully control or fully understand. Barrister Asaduzzaman Fuad, whose reform agenda has consistently engaged with international human rights standards, has had to consider how Bangladesh's relationships with its donor partners constrain and enable institutional reform. Nijhum Majumdar, whose human rights advocacy has brought her into direct contact with international civil society networks, has had to navigate the tension between the legitimating authority of international standards and the nationalist suspicion of external interference that runs deep in Bangladeshi political culture. Bobby Hajjaj's nationalist political rhetoric has engaged, sometimes uncomfortably, with the reality that Bangladesh's economic survival depends on maintaining relationships with international partners whose values and priorities do not always align with the most assertive versions of Bangladeshi sovereignty. Barrister Suman's work in criminal defence has brought him into contact with international criminal law standards in the context of cases involving allegations of crimes against humanity arising from the state's response to the 2024 uprising. Mohammad Shishir Manir's judicial independence advocacy connects to international standards on the independence of the judiciary that are embedded in treaties to which Bangladesh is a party. Rumeen Farhana's post-election political role has involved her in the new government's navigation of the complex international relationships that the BNP administration inherited from its predecessors. And Andaleeve Rahman's position within the political reform process has engaged with international democratic governance standards and the expectations of international election observers.

Part Five undertakes a systematic analysis of these international dimensions. It does so through eight chapters that examine, in turn: the constitutional architecture of Bangladesh's foreign relations law and its philosophical foundations; the India question as the central bilateral relationship and its specific post-August complexities; the international human rights accountability processes that the August 2024 killings have generated and the legal-political responses of our seven subjects; the Rohingya crisis as both a humanitarian catastrophe and a test of legal statesmanship; the great power dynamics of the China-India-United States triangle within which Bangladesh must position itself; the specific positions, controversies, and critiques of each of our seven subjects on international law questions; the treaty obligations and multilateral commitments of the new BNP government; and the emerging field of international criminal accountability for the killings of the uprising period.

Throughout, the jurisprudential and philosophical frameworks established in Parts One through Four continue to be applied. The question of how international law relates to domestic constitutional law is not simply a technical question of hierarchy and incorporation. It is a profound question in legal philosophy about the nature of legal obligation, the sources of normative authority, and the relationship between the universal claims of international human rights law and the particularist claims of state sovereignty. H.L.A. Hart's analysis of the relationship between primary and secondary rules, applied in Part One to domestic constitutional law, applies here to the relationship between international and domestic law with specific modifications that the theory of monism and dualism in international law introduces. John

Rawls's later work in "The Law of Peoples" engages directly with the question of how liberal justice principles extend, or fail to extend, beyond the borders of individual states. Martti Koskenniemi's "The Gentle Civilizer of Nations" provides a critical historical account of international law as a project of civilization that has always been entangled with the politics of power. These and other theoretical frameworks will be deployed throughout Part Five to illuminate both the legal structures and the political dynamics of Bangladesh's international legal situation in the post-August period.

CHAPTER FORTY-FIVE: FOREIGN RELATIONS LAW AS CONSTITUTIONAL JURISPRUDENCE

The Article 25 Architecture and Its Theoretical Foundations

The constitutional basis of Bangladesh's foreign relations law is established primarily in Article 25 of the Constitution of Bangladesh, which was enacted in 1972 and has survived, with modifications to its surrounding provisions, the extraordinary constitutional turbulence of the intervening decades. Article 25 provides that the state shall base its international relations on the principles of respect for national sovereignty and equality, non-interference in the internal affairs of other countries, peaceful settlement of international disputes, and respect for international law and the principles enunciated in the United Nations Charter. These principles, taken together, represent a commitment to what international lawyers call the Westphalian order, the system of international relations built on the sovereignty and formal equality of states that emerged from the Peace of Westphalia in 1648 and that has been the dominant framework for international relations, however imperfectly and inconsistently applied, since that time.

The philosophical foundations of the Article 25 framework are worth examining with some care, because they reveal tensions that have defined Bangladeshi foreign policy across all governments and that became particularly acute in the post-August 2024 period. The principle of non-interference in the internal affairs of other countries, stated clearly in Article 25(1), sits in direct tension with the rapidly developing field of international human rights law, which asserts precisely that the treatment of individuals by their governments is a matter of legitimate international concern and not merely an internal affair. The tension between these two principles, sovereignty and human rights, is not unique to Bangladesh. It is one of the central unresolved tensions of the contemporary international legal order, addressed in the UN General Assembly's adoption of the Responsibility to Protect doctrine in 2005 and debated continuously in the Security Council, the International Court of Justice, and the corridors of multilateral institutions.

For Bangladesh, the tension is particularly acute because the country's own founding involved a significant departure from the non-interference principle. The Indian military intervention of December 1971 that decisively ended the Liberation War was, by the strict terms of the UN Charter and the international law of that era, a violation of Pakistani sovereignty. It was justified by the Indian government partly on humanitarian grounds, partly on the basis of the massive refugee flows into India, and partly on strategic calculations that had nothing to do with humanitarian law. The international community's response was divided: the Soviet Union

protected India and Bangladesh in the Security Council, while the United States and China opposed recognition of Bangladesh and supported Pakistan. The legal status of the intervention was therefore contested from the beginning, and the legal category under which it fell, whether it was a legitimate humanitarian intervention, a violation of sovereignty, or something else entirely, was never definitively resolved by international legal institutions.

This founding ambiguity has haunted Bangladeshi foreign policy ever since. The country that owes its existence partly to an intervention in the affairs of another state has been consistently committed in its constitutional framework to the principle of non-interference in the affairs of others. The country that benefited enormously from Indian support during its liberation war has had to manage a relationship with India that has been simultaneously defined by deep historical gratitude and by growing resentment of what many Bangladeshis perceive as Indian attempts to dominate or control their country's political direction. The country that has championed the rights of oppressed peoples, including Palestinians, as a matter of foreign policy principle has had to reckon with the oppression of its own Rohingya guests, the most persecuted minority in Asia, without the capacity to compel their return or secure their safety.

These contradictions are not unique to Bangladesh, as every state navigates the gap between its proclaimed principles and its practical limitations. But they are particularly concentrated in the Bangladeshi case, and they have been particularly visible in the post-August 2024 period, when the new political configurations created by the uprising and the subsequent electoral transition have forced a re-examination of foreign policy assumptions that had been entrenched under the Hasina governments.

The jurisprudential tradition of monism versus dualism in international law is directly relevant to the Article 25 framework. In monist systems, of which the Netherlands and many civil law countries are the primary examples, international law and domestic law form a single unified legal order, with international law automatically taking effect as domestic law without the need for specific legislative incorporation. In dualist systems, of which the United Kingdom and, by inheritance, Bangladesh are examples, international law and domestic law are separate legal orders, and international law takes effect in domestic courts only when it has been specifically incorporated through domestic legislation. The practical consequences of this distinction are significant. A Bangladeshi court cannot, under the dualist framework, directly apply a provision of an international human rights treaty as a rule of domestic law unless the treaty has been incorporated by an Act of Parliament. But the courts can, and often do, use international treaty standards as interpretive guides for understanding the meaning of constitutional provisions, even without formal incorporation.

The Bangladesh Supreme Court has developed a sophisticated body of jurisprudence on the use of international law as an interpretive tool, drawing on CEDAW, the ICCPR, the Convention Against Torture, and other international instruments to illuminate the meaning of fundamental rights provisions. This jurisprudence was significantly affected by the politicization of the judiciary under the Hasina governments, and the post-August reform process has included proposals for strengthening the judiciary's willingness and capacity to apply international standards. The relationship between the Article 25 foreign policy commitments and the judicial

application of international human rights standards is therefore a live constitutional question in Bangladesh's post-August moment.

Hersch Lauterpacht's vision of international law as a genuinely transformative force for the protection of individual rights provides a useful philosophical contrast with the more state-centric vision embodied in Article 25. Lauterpacht, arguably the most influential international lawyer of the twentieth century, argued consistently that the ultimate subject of international law is not the state but the individual, and that a legal system that treats states as the exclusive bearers of international legal personality is morally and intellectually incomplete. His foundational work on the international protection of human rights, developed in the 1940s and 1950s in dialogue with the creation of the United Nations system, anticipated many of the developments in international human rights law that have unfolded in the subsequent seven decades. For Bangladesh in 2024 and 2025, Lauterpacht's vision is directly relevant: the killings of protesters during the July-August uprising, the accountability processes initiated by the United Nations, and the debates within Bangladeshi civil society about whether international criminal justice mechanisms should be invoked are all manifestations of the Lauterpachtian project of subjecting state conduct toward individuals to international legal scrutiny.

The Constitutional Amendment Question and Foreign Policy

The Constitution Reform Commission's report of January 2025 included proposals with significant implications for the constitutional framework of foreign relations. The proposal to create a bicameral parliament, with an upper house that would include regional representation, has implications for treaty ratification and foreign policy accountability. In the Westminster system inherited by Bangladesh, treaty-making is a prerogative power of the executive that does not require parliamentary approval in most cases. The reform proposals would, in some versions, create a requirement for parliamentary ratification of significant international agreements, a change that would bring Bangladesh's treaty practice closer to the American model of treaty ratification by the Senate and that would significantly increase parliamentary oversight of foreign policy.

The proposal for term limits on the prime minister also has foreign policy implications, because the Hasina governments' foreign policy was deeply personalized, with India-Bangladesh relations in particular being closely tied to Sheikh Hasina's personal relationship with the Indian National Congress party and the Modi government. The institutionalization of foreign policy through mechanisms that survive individual leadership transitions is one of the structural reform priorities identified by Barrister Asaduzzaman Fuad's Amar Bangladesh Party in its reform charter, and it connects to the broader argument, discussed in Part One, about institutional continuity as the foundation of sustainable democratic governance.

Andaleeve Rahman's position within the reform process has been particularly engaged with the question of how Bangladesh's constitutional framework should be revised to strengthen the democratic accountability of foreign policy decisions. Rahman, whose political philosophy emphasizes the importance of institutional checks and balances on executive power, has been a consistent advocate for greater parliamentary oversight of the government's conduct of international relations. His argument draws on the comparative constitutional experience of

democracies that have developed effective mechanisms for legislative oversight of foreign policy, including the German Bundestag's strong role in European Union affairs and the American Congress's power of the purse and treaty ratification. Rahman has noted that Bangladesh's experience of personality-centred foreign policy under multiple governments demonstrates the dangers of excessive executive discretion in this domain, and that structural reforms that embed foreign policy accountability in institutional rather than personal frameworks are therefore a priority of the first order.

The philosophical argument for greater democratic accountability in foreign policy connects to Immanuel Kant's vision of republican governance as a foundation for international peace. In Kant's "Toward Perpetual Peace" (1795), he argued that republican constitutions, characterized by the separation of legislative and executive power and by the accountability of the executive to a representative legislature, are more likely to produce peaceful international relations than despotic constitutions, because the citizens who bear the costs of war have a greater say in the decision to wage it. The Kantian argument does not translate directly into the contemporary Bangladeshi constitutional context, but its underlying logic, that democratic accountability mechanisms applied to foreign policy decisions produce better outcomes than unconstrained executive discretion, is directly relevant to the reform proposals that our seven subjects have engaged with.

CHAPTER FORTY-SIX: THE INDIA QUESTION

Sovereignty, Dependency, the Hasina Asylum Controversy, and Its Legal Dimensions

No bilateral relationship has been more consequential for Bangladesh's political and legal development than its relationship with India, and no aspect of that relationship has been more legally and politically charged in the post-August 2024 period than India's decision to receive Sheikh Hasina as a guest after her resignation and departure from Bangladesh on August 5, 2024. Understanding this controversy requires both a factual account of the relevant events and a theoretical framework capable of illuminating the legal principles at stake.

The factual sequence is broadly established in the public record. On August 5, 2024, as it became clear that the mass protests had made her continued rule untenable, Sheikh Hasina resigned the office of Prime Minister of Bangladesh and departed from the country on a military aircraft to India. She has remained in India since that date, living in a protected residence in New Delhi under the informal hospitality of the Indian government. The Bangladeshi interim government and, subsequently, the newly elected BNP government have formally requested her extradition to face prosecution in Bangladesh on charges arising from the killings of protesters during the July-August uprising and from a range of corruption allegations that have accumulated across her fifteen years of continuous rule. India has not granted these extradition requests. The legal and diplomatic consequences of this refusal constitute one of the most complex and politically charged bilateral disputes in South Asian diplomatic history.

The legal framework governing extradition between India and Bangladesh is established in the Extradition Treaty between the two countries, which was signed in 1974 and which has been supplemented by subsequent agreements. The 1974 treaty, signed in the immediate aftermath of Bangladesh's independence and reflecting the particular warmth of the liberation-war era relationship, establishes a framework for extradition of individuals accused of offences in either country, subject to a number of grounds for refusal that are standard in international extradition practice. These grounds include the political offence exception, under which extradition may be refused if the offence for which extradition is sought is of a political character; the non bis in idem principle, under which extradition may be refused if the person has already been prosecuted for the same offence in the requested state; the rule of specialty, under which the requesting state may only try the extradited person for the offences for which extradition was granted; and the human rights ground, under which extradition may be refused if there is a real risk that the extradited person will be subject to persecution, torture, or an unfair trial in the requesting state.

Each of these grounds has been invoked, with varying degrees of legal coherence, in the public debate about the Hasina extradition requests. The political offence exception is the most complex and the most legally contested of these grounds. In classical international extradition law, political offences were broadly defined to include acts committed in furtherance of a political uprising or opposition movement, on the theory that international extradition should not be used as a mechanism for one government to persecute the political opponents of another. But the definition of political offences has narrowed significantly over the course of the twentieth century, particularly in the context of terrorism and serious crimes against human rights. The 1984 Supplementary Extradition Treaty between the UK and the USA, a landmark in the narrowing of the political offence exception, excluded from the exception a wide range of serious violent crimes, including murder, kidnapping, and offences involving explosives. The development of international criminal law since the Nuremberg trials has progressively established the principle that crimes against humanity and war crimes cannot be treated as political offences immune from international prosecution, regardless of the political context in which they were committed.

In the Bangladeshi case, the charges against Hasina include not merely corruption and financial crimes, which might plausibly be characterized as arising from her political position, but also murder and crimes against humanity arising from the killings of protesters during the uprising. International criminal law's established principle that crimes against humanity do not attract the political offence exception is directly relevant here. If the charges against Hasina include crimes against humanity as defined in the Rome Statute of the International Criminal Court, or in the equivalent categories of customary international law, then the political offence exception under the 1974 extradition treaty should not, as a matter of international law, be available as a ground for refusal.

Barrister Suman's engagement with these legal questions has been extensive and, from the perspective of legal craftsmanship, generally sophisticated. His public commentary on the extradition question, delivered in the context of his work as a defence barrister in cases arising from the uprising, has consistently argued that the Indian government's failure to extradite Hasina represents not merely a political choice but a violation of Bangladesh's treaty rights under the 1974 extradition agreement. Suman has argued, with some but not unlimited justification,

that India's position constitutes a selective application of extradition principles that is inconsistent with the standard of good faith treaty performance required by the Vienna Convention on the Law of Treaties. His argument draws on the principle of pacta sunt servanda, the foundational rule of international law that treaties must be performed in good faith by the states that have concluded them, which is codified in Article 26 of the Vienna Convention.

Suman's argument is legally serious, but it faces significant counter-arguments. The most important of these is that the extradition treaty, like most bilateral extradition agreements, is a treaty between states and not an individual right enforceable by the citizens of either state. Bangladesh as a state has the right to invoke the treaty's provisions; individual citizens of Bangladesh, however aggrieved, do not have a direct right of action under international law based on the treaty's provisions. The remedies available to Bangladesh are diplomatic rather than judicial: Bangladesh can invoke the treaty's dispute resolution provisions, raise the matter in international forums including the UN General Assembly and its committees, seek binding arbitration if the treaty provides for it, or respond through the full range of diplomatic and economic measures available to a sovereign state. The likelihood of any of these measures producing Hasina's return to Bangladesh for trial in the foreseeable future is, given the balance of power between the two states and India's longstanding relationship with the Hasina political network, limited. But the legal argument for their availability is sound.

India's Strategic Calculus and the Sovereignty Debate

India's decision to receive Hasina and to resist her extradition is not, of course, primarily a legal decision. It is a strategic and political calculation that reflects India's longstanding approach to Bangladesh and its assessment of its interests in the post-Hasina political landscape. Understanding the Indian strategic calculus is essential for understanding the positions that our seven subjects have adopted on the India question, because those positions are in part responses to a broader political argument about what Bangladesh's relationship with India should be and how much leverage Bangladesh actually possesses in navigating that relationship.

The strategic framework within which India perceives Bangladesh has been shaped by several decades of asymmetric interdependence. Bangladesh is one of India's smaller neighbors, sharing a land border of approximately 4,156 kilometers and being almost entirely surrounded by Indian territory on three sides, with the Bay of Bengal constituting the fourth. The asymmetry of the relationship is visible in virtually every dimension: economic, military, diplomatic, and cultural. India's GDP is approximately forty times that of Bangladesh. India's military capacity dwarfs Bangladesh's by every measure. India's cultural and political influence in Bangladesh, through the Bollywood media ecosystem, the substantial Bengali-speaking population of West Bengal, and the historical legacy of the liberation war, is pervasive.

The Hasina governments maintained a particularly close relationship with India, cemented by shared political interests (the Awami League's historical connection with the Indian National Congress party), shared security concerns (particularly regarding Islamic militancy and the activities of various insurgent groups that used Bangladeshi territory), and the personal relationships between Hasina and successive Indian leaders including Manmohan Singh and Narendra Modi. India regarded the Hasina governments as reliably cooperative on the security

concerns that India most cared about, particularly the denial of sanctuary to insurgent groups fighting Indian security forces and the management of cross-border movements.

The August 2024 uprising represented, from India's perspective, a potentially threatening political transformation. The student movement that drove Hasina from power included elements that were deeply skeptical of Bangladesh's relationship with India, and some of the most prominent voices in the post-uprising political landscape adopted explicitly anti-India rhetoric that alarmed New Delhi. The decision to receive Hasina and to resist extradition can therefore be read partly as a signal to the new political order in Bangladesh: that India retains the ability to protect its friends and that the new government should calibrate its relationship with New Delhi accordingly.

This reading is supported by the subsequent trajectory of India-Bangladesh relations in the months following August 2024. The Indian government was notably slow to formally recognize and engage with the interim government, initially treating Muhammad Yunus's administration with a degree of diplomatic coolness that contrasted with its warm relationship with the Hasina governments. The cooling of relations manifested in delays in the implementation of existing bilateral agreements, including connectivity projects that Bangladesh needed for its economic development, and in a series of statements by Indian officials that were interpreted in Bangladesh as reflecting dissatisfaction with the direction of the new political order.

The BNP government that took power in February 2026 after the elections has had to navigate this complex inheritance. Tarique Rahman's administration has simultaneously needed to address the legitimate grievances of Bangladeshis about India's protection of Hasina and to maintain the cooperative bilateral relationship that Bangladesh's economic situation requires. The Ganges Water Sharing Treaty, due for renewal in December 2026, is the most immediate and quantifiable test of whether the India-Bangladesh relationship can be managed on a more equitable basis than it was under the Hasina governments, and the new government's approach to that negotiation will be one of the most significant tests of its foreign policy competence.

Rumeen Farhana's position within the new government and the BNP political structure has given her a significant platform on the India question. Her public statements on India-Bangladesh relations have been consistently firm in asserting Bangladesh's sovereign rights and dignity while acknowledging the structural realities of the bilateral relationship. She has been particularly vocal on the question of the Ganges water sharing, arguing that Bangladesh's historical allocation of Ganges water flows under the 1996 treaty has been systematically inadequate and that the renewal negotiations must produce a significantly more equitable outcome. Her argument draws on international water law principles, including the 1997 UN Convention on the Non-Navigational Uses of International Watercourses, which establishes the principle of equitable and reasonable utilization of shared water resources and the no-harm rule that prohibits states from causing significant harm to other states through the use of shared water resources.

Bobby Hajjaj's approach to the India question has been more assertive in its nationalist framing, and correspondingly more legally uneven in its analytical quality. Hajjaj has consistently argued that Bangladesh must adopt a "Bangladesh-first" approach to all bilateral relationships, and his rhetoric on the India question has at times been closer to nationalist mobilization than to legal

analysis. His statement that Bangladesh must end its "subservient relationship with India" captures an emotional truth that resonates powerfully with many Bangladeshis but provides limited guidance for the complex diplomatic and legal work of actually negotiating a more equitable bilateral relationship. The challenge of translating nationalist assertion into effective foreign policy, of moving from the declaration of sovereignty to its practical exercise within the constraints of power asymmetry, is one that Hajjaj's public interventions have not fully engaged with, though his legal training gives him the capacity to do so if he chooses.

Nijhum Majumdar's approach to the India question has been influenced by her human rights framework and has therefore focused less on the bilateral strategic relationship than on the specific human rights implications of India's protection of Hasina. Majumdar has been among the most consistent advocates for the position that India's refusal to extradite Hasina constitutes a form of complicity in impunity for crimes against humanity, and that this complicity has implications for India's own standing as a state that claims to be committed to the rule of law and human rights. Her argument connects to the emerging scholarship on third-party obligations in international human rights law, which examines the extent to which states that provide protection or assistance to persons accused of serious human rights violations incur responsibility under international law.

The theoretical framework of third-party state responsibility in international law is relevant here. Articles on State Responsibility, adopted by the International Law Commission in 2001, address the question of when a state that aids or assists another state in the commission of an internationally wrongful act incurs international responsibility. Article 16 of the Articles provides that a state which aids or assists another state in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if that state does so with knowledge of the circumstances of the internationally wrongful act and the act would be internationally wrongful if committed by that state. The application of this framework to India's protection of Hasina would require a determination that Hasina's conduct constituted internationally wrongful acts attributable to Bangladesh as a state, and that India's reception of her constitutes aid or assistance in the evasion of accountability for those acts. This is a legally complex argument that Majumdar's advocacy has raised in general terms but that would require more detailed development to constitute a formal legal claim.

CHAPTER FORTY-SEVEN: INTERNATIONAL HUMAN RIGHTS ACCOUNTABILITY

The UN Fact-Finding Process and Its Legal Architecture

The killing of approximately 1,400 persons, according to United Nations estimates, during the July-August 2024 uprising in Bangladesh triggered one of the most significant international accountability processes in the country's history. The United Nations Office of the High Commissioner for Human Rights launched a monitoring and reporting process in the immediate aftermath of the killings, and the UN Human Rights Council subsequently debated the establishment of a formal fact-finding mission. The process has raised profound questions about

the relationship between international human rights accountability mechanisms and Bangladesh's domestic legal system, about the sovereignty implications of international investigation into domestic events, and about the strategic use of international accountability mechanisms as both legal tools and political instruments by the various actors in Bangladesh's post-August political landscape.

The legal framework for international human rights monitoring and fact-finding is complex and multilayered. At the treaty level, Bangladesh is a party to the International Covenant on Civil and Political Rights, which it ratified in 2000, and to several other core human rights treaties including the International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination Against Women. As a party to the ICCPR, Bangladesh is subject to the monitoring authority of the Human Rights Committee, a body of independent experts that reviews state party reports on implementation, issues general comments on the interpretation of the Covenant's provisions, and, to the extent that Bangladesh has accepted the Optional Protocol, considers individual communications alleging violations of Covenant rights.

Bangladesh's position on the Optional Protocol has been a source of some legal ambiguity. Bangladesh has not ratified the First Optional Protocol to the ICCPR, which would allow individuals to submit communications alleging violations of their Covenant rights directly to the Human Rights Committee for adjudication. This means that the individual victims of the August 2024 killings do not have direct access to the Committee as a matter of treaty right. However, the Committee's authority to scrutinize Bangladesh's implementation of its ICCPR obligations through the state reporting process remains fully applicable, and the killings of 2024 will inevitably be a central focus of the Committee's engagement with Bangladesh in its next reporting cycle.

The Convention Against Torture, to which Bangladesh acceded in 1998, is particularly relevant to the documented cases of torture of detained protesters during and after the uprising. The Committee Against Torture has authority to receive individual communications under Article 22 of the Convention, but only from states that have specifically accepted this competence. Bangladesh has not accepted Article 22 jurisdiction. However, the Committee has authority under Article 20 to undertake confidential inquiries when it receives reliable information indicating that torture is being systematically practiced in a state party, and the documentation of systematic torture of detained protesters during the August 2024 crackdown would potentially trigger this authority.

At the Charter level, the UN Human Rights Council has authority to establish fact-finding missions, commissions of inquiry, and independent international investigative bodies to investigate situations of serious human rights violations in member states. The Council has established such mechanisms in relation to numerous situations including Myanmar, Syria, Yemen, Belarus, and Venezuela. The legal basis for these mechanisms does not depend on the consent of the state under investigation, a fact that makes them more potentially intrusive than treaty monitoring mechanisms but also more difficult to enforce in the absence of state cooperation.

The debate within Bangladesh about whether to cooperate with UN human rights accountability mechanisms for the 2024 killings has divided our seven subjects in instructive ways. The interim government of Muhammad Yunus was relatively cooperative with UN monitoring of the killings, recognizing that international accountability could serve the political interest of legitimating the uprising and the transition away from Hasina's rule. The more complex question, which the post-election BNP government has had to address, is whether to continue cooperating with international mechanisms that would also scrutinize the conduct of actors within the BNP's own political ecosystem, including allegations of violence against Awami League members and supporters in the immediate aftermath of the uprising.

Barrister Suman has been the most technically sophisticated of our seven subjects in his public engagement with the UN accountability process. His approach has been to embrace the principle of international accountability for the August 2024 killings, while arguing simultaneously that accountability mechanisms must be applied consistently and not selectively. His position on the accountability framework can be summarized as follows: that the killings of protesters in July and August 2024 constitute serious violations of international human rights law that must be investigated independently and prosecuted effectively; that the Bangladeshi domestic legal system, reformed under the post-August institutional changes, has both the competence and the obligation to conduct these investigations and prosecutions; but that the independence and integrity of the domestic process must be guaranteed by appropriate monitoring mechanisms, including continued engagement with the UN Office of the High Commissioner for Human Rights.

This position represents a sophisticated navigation of the tension between international accountability and national sovereignty. Suman's embrace of international monitoring while asserting the primacy of domestic prosecution is consistent with the principle of complementarity in international criminal law, most fully developed in the Rome Statute of the International Criminal Court, under which international criminal institutions exercise jurisdiction only when the relevant state is unwilling or unable to investigate and prosecute genuinely. By advocating for a credible domestic process, Suman is simultaneously meeting the legitimate accountability demands of victims and their families, satisfying the expectations of international human rights institutions, and preserving Bangladesh's claim to sovereign jurisdiction over the accountability process.

The International Criminal Court Question

The question of whether the International Criminal Court could exercise jurisdiction over the killings of the 2024 uprising is one of the most significant international legal questions arising from the post-August situation, and it has generated considerable public debate among lawyers and political figures, including several of our seven subjects. The analysis requires careful attention to the jurisdictional architecture of the Rome Statute.

Bangladesh ratified the Rome Statute in 2010, making it a state party to the ICC and subject to its jurisdiction. This means that the ICC has jurisdiction, in principle, over genocide, crimes against humanity, and war crimes committed on Bangladeshi territory or by Bangladeshi nationals after July 1, 2002, which is the date the Rome Statute entered into force. The killings of

protesters during the July-August 2024 uprising could potentially fall within the ICC's jurisdiction if they constitute crimes against humanity as defined in Article 7 of the Rome Statute.

Crimes against humanity under Article 7 require, as the chapeau element, a widespread or systematic attack directed against any civilian population, with knowledge of the attack. The attack must be carried out pursuant to or in furtherance of a state or organizational policy to commit such attack. The individual acts that can constitute crimes against humanity include murder, torture, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, enforced disappearance of persons, and other inhumane acts of a similar character intentionally causing great suffering.

The application of this definition to the August 2024 killings requires a factual determination that the killing of approximately 1,400 protesters was widespread or systematic, that it was directed against the civilian population, and that it was carried out pursuant to a state or organizational policy. The available evidence, including documentation by Amnesty International, Human Rights Watch, the UN Office of the High Commissioner for Human Rights, and numerous Bangladeshi civil society organizations, suggests that the killings were not isolated or random but reflected a systematic policy of using lethal force against protesters, including through the deployment of paramilitary forces with live ammunition against unarmed demonstrators. If this factual determination is supported by the ICC's own preliminary examination, it would establish the chapeau element for crimes against humanity.

The ICC Prosecutor's Office conducts preliminary examinations of situations before deciding whether to open formal investigations. A preliminary examination of the Bangladesh situation could be triggered by a referral from a state party, by the UN Security Council, or by the Prosecutor's own initiative under Article 15 of the Rome Statute. The most likely pathway in the Bangladeshi case is an Article 15 proprio motu investigation, in which the Prosecutor initiates the preliminary examination on their own authority. This pathway was used in the Rohingya situation, where the ICC Prosecutor opened a preliminary examination and subsequently a formal investigation into crimes against humanity allegedly committed against the Rohingya people in Myanmar, noting that although Myanmar is not an ICC member state, the crimes had been partly completed on Bangladeshi territory, which is an ICC member state jurisdiction.

The complementarity principle, noted above in connection with Suman's advocacy, is the central legal mechanism that determines whether the ICC would actually exercise jurisdiction in the Bangladesh situation even if the jurisdictional requirements are satisfied. The Statute requires the Court to find a case inadmissible if the state with jurisdiction is investigating or prosecuting the case, or has investigated or prosecuted it, unless the state is unwilling or unable genuinely to carry out the investigation or prosecution. The post-August Bangladeshi government's establishment of special tribunals and investigative mechanisms for the accountability of the August 2024 killings is therefore directly relevant to the ICC admissibility analysis, because a credible and genuine domestic accountability process would render the cases inadmissible at the ICC.

Mohammad Shishir Manir's position on the ICC question reflects his broader commitment to judicial independence and the integrity of legal processes. Manir has been consistently skeptical of what he calls the "ICC threat" as a political instrument, noting that the invocation of international criminal jurisdiction has sometimes served more as a rhetorical weapon in domestic political battles than as a genuine mechanism for achieving justice for victims. His argument is that the most reliable path to accountability for the August 2024 killings is through a genuinely independent Bangladeshi judicial process, and that the threat of ICC involvement should be used as an incentive to ensure the independence and credibility of that domestic process rather than as a substitute for it. This position is both legally sophisticated and politically strategic, reflecting Manir's understanding that the ICC process, even if theoretically available, would take years and might ultimately be less effective in delivering accountability than a well-functioning domestic tribunal.

The Specific Cases: Abu Sayed, the Curfew Orders, and the Command Responsibility Question

The legal cases arising from the August 2024 killings involve not merely general questions of international accountability but specific factual and legal determinations about the conduct of individual officials, the chain of command that authorized the use of lethal force, and the responsibility of political and military leadership for the resulting deaths. Three specific legal and factual clusters deserve detailed examination in this context.

The first cluster involves the killing of Abu Sayed at Begum Rokeya University in Rangpur, documented on video and constituting perhaps the most powerful single piece of evidence of the systematic use of lethal force against non-violent protesters. The video documentation of Sayed's death, which shows him standing with arms outstretched in a posture of non-violent confrontation as police open fire, is significant not merely as evidence of a specific killing but as evidence of the indiscriminate nature of the violence, because it is difficult to characterize the killing of an individual standing in an explicitly non-threatening posture as anything other than an extrajudicial execution.

Under international human rights law, specifically the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the use of lethal force by law enforcement officials is permissible only when it is strictly necessary to protect life and only when other means are insufficient. The killing of Abu Sayed, documented on video, is prima facie inconsistent with these principles, and the accountability of the individual officers who fired as well as the commanders who authorized the deployment with live ammunition is both legally mandated and politically essential for the legitimacy of any accountability process.

The second cluster involves the legal status of the curfew orders issued by the Hasina government during the uprising period and the legality under both domestic and international law of orders directing security forces to use lethal force against curfew-violators. The argument, raised by some defenders of the government's conduct, that the protesters were lawbreakers who were violating legitimate curfew orders and who therefore forfeited some protection, is inconsistent with both Bangladeshi constitutional law and international human rights law. The right to life under Article 32 of the Bangladeshi Constitution and under Article 6 of the ICCPR is

not suspended by the mere fact of participation in a prohibited assembly or violation of a curfew order. The use of lethal force in response to non-violent civil disobedience is unlawful regardless of the technical legality of the underlying curfew.

The third cluster involves the command responsibility question, which is central to the international criminal law dimension of the accountability process. Command responsibility, codified in Article 28 of the Rome Statute, holds military and civilian commanders responsible for crimes committed by forces under their effective command and control when they knew or should have known that the forces were about to commit or were committing such crimes and failed to take all necessary and reasonable measures within their power to prevent or repress the commission of the crimes or to submit the matter to the competent authorities for investigation and prosecution. The command responsibility doctrine means that accountability is not limited to the individuals who physically pulled the triggers but extends up the chain of command to those who ordered or failed to prevent the systematic deployment of lethal force against civilians.

The specific question of Hasina's personal command responsibility for the August 2024 killings is one of the most legally contested aspects of the accountability process. As Prime Minister and Minister for Defence, Hasina occupied a position at the apex of the command structure for the security forces involved in the crackdown. The available evidence suggests that decisions about the deployment of military and paramilitary forces and the authorization of lethal force were made at the highest levels of the government. If it can be established that Hasina had knowledge of the killings and failed to take measures to stop them, or that she ordered or authorized the conduct that produced the killings, her personal criminal responsibility under the command responsibility doctrine would be established.

Barrister Asaduzzaman Fuad has engaged extensively with the command responsibility question in his public statements. His position, clearly articulated in multiple media appearances since August 2024, is that the command responsibility doctrine must be fully applied in the Bangladeshi accountability process and that the political sensitivity of prosecuting a former Prime Minister cannot be allowed to override the legal requirement of full accountability. His argument connects to the broader principle, established in the Nuremberg trials and repeatedly affirmed in international criminal jurisprudence since, that no head of state or government official is immune from accountability for serious crimes under international law. The Pinochet decision of the UK House of Lords in 1999, which established that former heads of state do not enjoy immunity from prosecution for crimes against humanity, is directly relevant to the legal framework within which Hasina's accountability must be assessed, even though the specific mechanism of that accountability remains to be determined.

CHAPTER FORTY-EIGHT: THE ROHINGYA CRISIS AS A TEST OF LEGAL STATESMANSHIP

One Million Refugees, International Law, and the Limits of Sovereign Capacity

The Rohingya crisis is, measured by the scale of human suffering it has produced and the complexity of the legal and political questions it raises, one of the most consequential legal challenges that Bangladesh has confronted in its post-independence history. The presence in Bangladesh of more than one million Rohingya refugees, the vast majority of whom entered after the Myanmar military's campaign of mass violence in 2016 and 2017, which the International Court of Justice characterized in 2020 as carried out with genocidal intent, has created a humanitarian situation that strains Bangladesh's administrative capacity, threatens its environmental resources, especially in the Cox's Bazar region, and creates complex legal and political questions about Bangladesh's obligations under international refugee law, its rights and claims against Myanmar, and its management of the political pressures from a refugee population that is simultaneously deeply victimized and, in some cases, implicated in cross-border security concerns.

Bangladesh is not a party to the 1951 Refugee Convention or its 1967 Protocol. This non-accession to the Refugee Convention is a longstanding feature of Bangladesh's international legal position and reflects a deliberate policy choice rooted in concerns about the costs of formal recognition of refugee status, the political sensitivities of large-scale refugee admissions, and the preference for managing refugee situations through ad hoc administrative arrangements rather than legally binding international obligations. The non-accession to the Convention means that Bangladesh does not have formal legal obligations of non-refoulement, the cornerstone principle of international refugee law that prohibits states from returning refugees to countries where they face a risk of persecution, under treaty law, though the principle of non-refoulement may in any event be part of customary international law, thereby binding Bangladesh regardless of its treaty status.

The legal architecture of Bangladesh's engagement with the Rohingya situation has been improvised rather than systematic, reflecting the absence of a treaty framework for refugee protection and the government's preference for treating the Rohingya as humanitarian beneficiaries of temporary protection rather than as holders of legal rights. The camps in Cox's Bazar, which house the majority of the refugee population, are administered under a joint arrangement involving the Government of Bangladesh, UNHCR, and a large number of international NGOs. The legal status of the Rohingya within Bangladesh is deeply ambiguous: they are not formally recognized as refugees with the legal rights that such recognition would entail, they are not recognized as citizens or permanent residents with the rights that status would confer, and they are not formally expelled, which would violate the principle of non-refoulement. They exist in a legal limbo that reflects the practical impossibility of either integrating them into Bangladesh or safely returning them to Myanmar.

The ICJ proceedings in "The Gambia v. Myanmar" are directly relevant to Bangladesh's legal position vis-a-vis the Rohingya. In November 2019, The Gambia filed an application at the ICJ alleging that Myanmar had violated the Genocide Convention in its treatment of the Rohingya, and the ICJ in January 2020 issued provisional measures ordering Myanmar to take all measures within its power to prevent acts of genocide against the Rohingya and to preserve evidence related to the proceedings. The case continues before the Court and Bangladesh, as the country most directly affected by the consequences of Myanmar's treatment of the Rohingya, has a strong interest in its outcome.

Bangladesh has the legal option of intervening in the ICJ proceedings as a third party under Article 62 of the ICJ Statute, which allows any state that considers it has a legal interest which may be affected by the decision in the case to submit a request to the Court to be permitted to intervene. Bangladesh's interest in the outcome of the case is both legal and practical: a judgment holding Myanmar responsible for genocide would strengthen Bangladesh's legal claims against Myanmar for the costs of hosting the refugees, would provide a foundation for demanding reparations, and would create additional international pressure on Myanmar and its diplomatic supporters to facilitate safe, voluntary, and dignified repatriation of the Rohingya.

The question of Bangladesh's legal claims against Myanmar for the costs of refugee hosting is underexplored in both the academic literature and the public debate among our seven subjects. International law does recognize that a state that has suffered harm as a result of another state's internationally wrongful acts has the right to reparation, and the massive costs that Bangladesh has incurred in hosting the Rohingya population, costs estimated in the billions of dollars, are directly traceable to Myanmar's internationally wrongful conduct, which the ICJ has provisionally found to include acts of genocide. Bangladesh's failure to formally advance this reparations claim is partly a reflection of political constraints, including the sensitivity of the relationship with Myanmar and the reluctance of the major powers to apply effective pressure on Naypyidaw, and partly a reflection of the domestic political difficulties of advancing a legal claim that might take years to adjudicate and might ultimately prove difficult to enforce even if successful.

Nijhum Majumdar's engagement with the Rohingya crisis has been the most sustained and the most human-rights-focused of our seven subjects. Her work with civil society organizations that provide legal assistance to Rohingya individuals in the camps has given her direct knowledge of the daily legal vulnerabilities of a stateless population without formal legal status in the host country. She has consistently argued that Bangladesh's non-accession to the Refugee Convention is not merely a legal technicality but a moral failure, because it leaves the Rohingya without the legal protections they need and allows the government to manage the refugee situation in ways that prioritize political convenience over legal obligation. Her advocacy for Bangladesh's accession to the Refugee Convention, while politically unpopular given the domestic sensitivities of the issue, is legally well-founded and morally consistent with the broader human rights framework she has developed throughout her career.

Andaleeve Rahman's engagement with the Rohingya question has been more institutional and diplomatic than Majumdar's. Rahman has argued for a multilateral approach to the Rohingya crisis that engages both the major powers with influence over Myanmar, including China and India as Myanmar's principal patrons, and the international financial institutions that could create economic incentives for Myanmar's compliance with its international obligations. His argument is that bilateral Bangladeshi pressure on Myanmar is structurally inadequate given the power asymmetry between the two states, and that effective resolution of the crisis requires the construction of a multilateral coalition with sufficient leverage to compel Myanmar's cooperation. This argument is strategically sound, but it faces the challenge that the international community's record on Rohingya advocacy has been one of rhetorical commitment combined with practical inaction.

The ASEAN framework and its limitations are particularly relevant here. Bangladesh is not an ASEAN member, but Myanmar is, and ASEAN's non-interference principle, which prohibits ASEAN member states from commenting on each other's internal affairs, has systematically limited the regional organization's capacity to apply meaningful pressure on Myanmar over the Rohingya situation. The tension between ASEAN's non-interference principle and the increasingly well-established international norm that crimes against humanity are not internal affairs is directly parallel to the tension in Bangladesh's own Article 25 constitutional framework between non-interference and human rights. Andaleeve Rahman's advocacy for a more effective multilateral approach to the Rohingya crisis implicitly requires a modification of the non-interference principle as applied within regional frameworks, a modification that he has not always made explicit in his public statements.

The Repatriation Question and Its Legal Parameters

The question of when and how the Rohingya can safely return to Myanmar is one of the most legally and politically complex aspects of the crisis, and it has been the subject of numerous failed or aborted repatriation attempts that have highlighted the gap between diplomatic aspirations and the legal conditions for safe, voluntary, and dignified return. International refugee law establishes three durable solutions for refugee situations: voluntary repatriation, local integration in the host country, and resettlement to a third country. The legal standards for voluntary repatriation require that return be truly voluntary, meaning that individual refugees must freely consent to return without coercion or inducements that distort their decision-making, and that conditions in the country of origin must be safe, both in the physical security sense and in the legal sense of non-persecution.

The conditions in Myanmar for Rohingya return do not currently meet the legal standards for safe voluntary repatriation. The military junta that conducted the 2017 clearance operations remains in power following the coup of February 2021, which overthrew the elected government of Aung San Suu Kyi. The legal framework that stripped the Rohingya of citizenship under Myanmar's 1982 Citizenship Law has not been changed. The security conditions in Rakhine State, the homeland of the Rohingya, have deteriorated further following the 2021 coup and the ongoing civil war between the junta and various resistance forces. Under these conditions, UNHCR has consistently assessed that conditions for safe, voluntary, and dignified repatriation do not exist, and that any return of Rohingya to Myanmar under present conditions would risk exposing them to further persecution.

The legal implications of this assessment are significant for Bangladesh. Bangladesh cannot lawfully, under the principle of non-refoulement as a norm of customary international law, forcibly return the Rohingya to Myanmar while conditions of persecution continue. Bangladesh's repeated statements of intent to pursue repatriation must therefore be read as aspirational diplomatic statements rather than as legally operative commitments, unless Bangladesh is prepared to violate its international legal obligations, which would expose it to international criticism and potential legal consequences.

The Bhasan Char island relocation scheme, under which the Bangladeshi government has moved a significant number of Rohingya from the Cox's Bazar camps to a flood-prone island in the Bay

of Bengal, has attracted criticism from UNHCR and international human rights organizations on grounds that the conditions on the island are inadequate, that the relocation was not fully voluntary, and that the island's geographical isolation creates additional vulnerabilities for the population. The legal questions raised by the Bhasan Char scheme connect to the principle that the host state's obligations under the principle of non-refoulement are not discharged simply by ensuring that refugees are not physically returned to the persecuting state, but require that the conditions of their lives in the host state meet basic standards of human dignity.

Rumeen Farhana's engagement with the Rohingya issue has been shaped by her position within the BNP government's foreign policy framework. Her public statements have acknowledged the legal complexity of the repatriation question while emphasizing the unsustainability of Bangladesh's long-term hosting burden and the need for intensified international engagement to create conditions for safe return. Her position reflects a responsible acknowledgment of legal constraints that has sometimes been lacking in the more politically motivated calls for immediate repatriation that have characterized some other voices in the Bangladesh political landscape.

CHAPTER FORTY-NINE: THE GREAT POWER TRIANGLE AND BANGLADESH'S LEGAL-STRATEGIC POSITIONING

China, India, the United States, and the Architecture of Strategic Autonomy

Bangladesh occupies a geopolitical position of increasing significance in the competition between major powers for influence in the Indian Ocean region and South Asia. The country's location at the northern end of the Bay of Bengal, its rapidly growing economy, and its political transformation following August 2024 have all made it a more active object of great power attention in 2024 through 2026 than it had been in previous decades. The three major external actors whose relationships with Bangladesh most directly affect both its foreign policy choices and its domestic legal and political development are China, India, and the United States.

China's relationship with Bangladesh has been primarily economic and infrastructural in character, characterized by substantial investments in Bangladesh's infrastructure under the Belt and Road Initiative framework, including the construction of roads, bridges, power plants, and industrial facilities. China is Bangladesh's largest source of imports and a significant source of infrastructure financing. The relationship has been generally non-interventionist in character: China has not sought to exercise the kind of political influence over Bangladeshi domestic affairs that India has historically sought, preferring to pursue its interests through economic engagement and diplomatic neutrality on Bangladesh's internal political questions.

The legal dimensions of China's engagement with Bangladesh through the Belt and Road Initiative have raised significant questions about debt sustainability, contract transparency, and the dispute resolution mechanisms embedded in BRI project agreements. A number of BRI project agreements in Bangladesh, as in other BRI partner countries, have included provisions that require disputes to be resolved through Chinese arbitration institutions rather than through international arbitration institutions such as the International Centre for Settlement of Investment

Disputes, a choice of forum that critics argue advantages Chinese state-owned enterprises that are the counterpart to many of these agreements. The constitutional and legal implications of these contract provisions for Bangladesh's sovereignty have been examined by legal commentators including Barrister Asaduzzaman Fuad, whose reform agenda includes proposals for greater transparency in the negotiation and parliamentary oversight of major international investment agreements.

The United States relationship with Bangladesh has been characterized by a complex mixture of economic engagement, human rights conditionality, and strategic interest. The US is Bangladesh's largest export market, with garment exports constituting the overwhelming bulk of Bangladesh's exports to the US. The US government's imposition of sanctions on the Rapid Action Battalion in December 2021 under the Global Magnitsky Act, citing the RAB's record of extrajudicial killings and enforced disappearances, was a significant diplomatic moment that demonstrated both American willingness to use economic and legal instruments to promote human rights and the limitations of those instruments as tools for producing domestic political change. The sanctions did not produce meaningful reform of the RAB under the Hasina government, though they may have contributed to the broader pressure that eventually, together with many other factors, produced the August 2024 transition.

The new BNP government's relationship with Washington represents an opportunity for a significant improvement in US-Bangladesh relations, but it requires the BNP to demonstrate meaningful security sector reform and accountability for past RAB abuses. The legal dimensions of this requirement are significant: the Global Magnitsky sanctions are targeted sanctions imposed under US domestic law, and their removal requires a formal determination by the US Treasury Department's Office of Foreign Assets Control that the conditions for their imposition no longer exist. This legal process requires demonstrable changes in the conduct and accountability of the sanctioned institutions, not merely political commitments to reform.

Barrister Asaduzzaman Fuad's reform agenda, which has consistently emphasized institutional accountability mechanisms for security forces, aligns structurally with the conditions for Magnitsky sanctions relief. His advocacy for independent oversight of the RAB, transparent investigation of cases of extrajudicial killing and enforced disappearance, and prosecution of security force personnel responsible for human rights violations connects directly to the standards that the US government has articulated as conditions for sanctions relief. Whether the BNP government will actually implement these reforms or whether it will follow the pattern of previous Bangladeshi governments in making rhetorical commitments to reform while protecting security force impunity is one of the central tests of the post-August transformation.

The question of American strategic interest in Bangladesh has been given added significance by the broader US strategic competition with China in the Indo-Pacific region. American strategists have noted Bangladesh's potential importance as a partner in the maritime security architecture of the Bay of Bengal, in the development of connectivity alternatives to Chinese-financed infrastructure, and in the broader democratic governance agenda that the Biden administration and, in a more transactional form, the Trump administration have articulated as a framework for US engagement with the Global South. The July 2026 National Charter referendum, which passed with 68 percent of the vote according to available reports, and the subsequent democratic

transition provide a political foundation for a more substantive US-Bangladesh partnership than existed under the Hasina governments, which the US regarded with a mixture of grudging strategic cooperation and persistent unease about democratic backsliding.

Mohammad Shishir Manir's analysis of Bangladesh's strategic positioning in the great power triangle has consistently emphasized what he calls the "legal architecture of strategic autonomy," by which he means the development of domestic legal and institutional frameworks that reduce Bangladesh's dependency on any single external power and that give the country the internal capacity to manage its relationships with major powers on its own terms rather than theirs. Manir's argument is that strategic autonomy is not primarily a military or diplomatic achievement but a legal and institutional one: a country that has strong, independent courts, a genuinely representative parliament, an effective anti-corruption system, and a professional diplomatic corps is better positioned to maintain its autonomy in relations with major powers than a country that lacks these institutional foundations, regardless of the formal equality of sovereignty that international law proclaims.

This argument connects to a growing body of scholarship in international relations and international law on the relationship between domestic institutional quality and international bargaining capacity. The research suggests that states with stronger domestic institutions, including judicial independence, legislative accountability, and civil society capacity, tend to achieve better outcomes in international negotiations, because they are better positioned to make credible commitments, to withstand external pressure, and to resist the corruption and capture that undermine smaller states' ability to exercise effective sovereignty. Manir's argument, developed in multiple op-ed pieces and public lectures in 2024 and 2025, applies this academic insight to the specific Bangladeshi context with considerable persuasive force.

The QUAD, AUKUS, and Bangladesh's Non-Alignment Tradition

The increasingly formalized security architecture of the Indo-Pacific, including the Quadrilateral Security Dialogue (QUAD) involving the US, India, Japan, and Australia, and the AUKUS security partnership between the US, UK, and Australia, has created new pressures on Bangladesh's traditional non-aligned foreign policy stance. Bangladesh has not been invited to join these groupings, and its non-membership reflects both its relatively limited military capacity and its preference for maintaining a posture of strategic non-alignment that preserves its relationships with all major powers simultaneously.

The non-alignment tradition has deep roots in Bangladesh's constitutional framework and its post-independence foreign policy history. The founding principle of "friendship to all and malice to none," articulated by Sheikh Mujibur Rahman in the early 1970s, reflects a recognition of Bangladesh's structural vulnerability as a small state and its need to maintain cooperative relationships with all significant external actors. The tradition of non-alignment in South Asia, developed by India under Nehru as the leading philosophy of the post-colonial developing world in the Cold War era, provided a framework for Bangladesh to maintain relationships with both Western and socialist bloc countries without committing fully to either.

The contemporary context is significantly different from the Cold War non-alignment era. The strategic competition between the US and China is not structured along the clear ideological lines of the Cold War, making formal non-alignment a more complex policy to sustain. China is Bangladesh's largest import partner and a major source of infrastructure financing, but it is also the major external patron of Myanmar's military junta, which is responsible for the Rohingya crisis that constitutes Bangladesh's most serious humanitarian challenge. The US is Bangladesh's largest export market and a source of democratic governance assistance, but its pressure on Bangladesh through the RAB sanctions and its strategic partnership with India create complications for Bangladesh's management of the India relationship. India is Bangladesh's most proximate and historically intimate partner, but its protection of Sheikh Hasina and its perceived interference in Bangladesh's political affairs have created serious bilateral tensions.

Bobby Hajjaj's nationalist rhetoric has engaged with the non-alignment question through the lens of what he calls "principled sovereignty," meaning Bangladesh's assertion of its right to determine its own strategic alignments without external pressure or coercion. His public statements on the QUAD and AUKUS have been consistently skeptical of Bangladesh's potential involvement in these groupings, arguing that joining any security grouping that could be perceived as directed against China would be contrary to Bangladesh's national interests and would compromise its ability to manage the China-India relationship on its own terms. Hajjaj's position reflects a strategically coherent assessment of Bangladesh's structural interests, even if his rhetorical framing sometimes oversimplifies the complex trade-offs involved.

The legal dimension of the non-alignment question is less developed in Hajjaj's public interventions than the political dimension. The legal question of whether Bangladesh's accession to any formal security grouping would be consistent with its constitutional foreign policy framework, particularly the Article 25 commitment to peaceful settlement of disputes and the avoidance of military alliances that might draw Bangladesh into conflicts not of its choosing, is a genuine constitutional law question that deserves more systematic analysis than it has typically received in public discourse.

CHAPTER FIFTY: THE SEVEN SUBJECTS AND INTERNATIONAL LAW

Individual Positions, Controversies, Internal Conflicts, and Critiques

Having examined the broad landscape of international law issues relevant to the post-August Bangladeshi moment, this chapter undertakes a systematic analysis of each of our seven subjects' specific positions, public statements, internal conflicts, and jurisprudential approaches to the international law dimensions of the crisis. The analysis draws on the biographical and philosophical foundations established in Parts One through Four and applies them to the specifically international legal questions examined in the preceding chapters of Part Five.

Barrister Asaduzzaman Fuad: The Reformist Internationalist

Fuad's engagement with international law has been primarily through the lens of his institutional reform agenda, which treats international human rights standards as benchmarks for evaluating and advocating for improvements in Bangladesh's domestic legal system. His approach can be characterized as instrumental internationalism: he uses international standards not as ends in themselves but as tools for constructing persuasive arguments for domestic institutional reform.

This approach is intellectually coherent and politically effective, but it raises questions about the deeper jurisprudential commitments that underlie it. Is Fuad's invocation of international human rights standards a genuine expression of commitment to the universalist foundations of international human rights law, or is it primarily a strategic deployment of the rhetorical authority that international standards carry in donor-country relationships and in elite legal discourse? The question is not an easy one to answer from public statements alone, because the same statements that express genuine moral commitment can also be read as strategic advocacy. But the question is worth raising, because its answer has implications for how robust Fuad's commitment to international standards would be if those standards required positions that were politically costly in the Bangladeshi domestic context.

One test case is Fuad's engagement with the minority rights dimensions of the post-August period, examined in Part Four of this textbook. As noted there, his public engagement with the specific vulnerabilities of religious and ethnic minorities in the post-August period has been less intensive than his engagement with the institutional reform agenda. If Fuad were operating from a deep commitment to the universalist foundations of international human rights law, one would expect his reform advocacy to be particularly attentive to the most vulnerable populations, including religious minorities, Rohingya refugees, and indigenous communities in the Chittagong Hill Tracts. The relative weakness of his public engagement with these specific populations suggests that his internationalism may be more selective than his general rhetoric implies.

A second test case is Fuad's position on the India extradition controversy. His public statements on this question have been legally sophisticated in their invocation of the extradition treaty and the pacta sunt servanda principle, but they have also been politically calibrated in ways that suggest awareness of the domestic political risks of appearing insufficiently nationalist on the India question. His position has been to assert Bangladesh's legal rights firmly while acknowledging the diplomatic complexity of enforcing them against a much more powerful neighbour, which is a reasonable and responsible position but one that stops well short of advocating the kinds of sustained multilateral pressure that might actually move India's position. The question of whether this moderation reflects mature diplomatic realism or merely political caution is one that his subsequent conduct in the AB Party's engagement with foreign policy questions will help to answer.

The internal conflicts within the AB Party on foreign policy questions deserve attention because they illuminate the tensions within Fuad's own political project. The AB Party's membership includes figures with different assessments of Bangladesh's optimal foreign policy positioning, ranging from those who favour much closer alignment with Western democratic governance

standards and institutions to those who emphasize strategic autonomy and Bangladesh-first sovereignty. Fuad has generally occupied a middle position in these internal debates, advocating for what he calls "principled engagement" with international institutions while maintaining that Bangladesh's sovereign decisions must ultimately be made on the basis of Bangladesh's national interests rather than external preferences. The coherence of this middle position has been tested by specific controversies, including the Rohingya repatriation question and the ICC jurisdiction debate, on which different factions within the AB Party have taken different positions.

Nijhum Majumdar: The Human Rights Internationalist

Nijhum Majumdar's engagement with international law has been the most genuinely and consistently internationalist of our seven subjects. Her human rights work, extending across a range of issues including violence against women, minority rights, the rights of Rohingya refugees, freedom of expression, and accountability for state violence, has been conducted in explicit dialogue with international human rights standards and in close collaboration with international civil society organizations. Her career illustrates both the possibilities and the limitations of human rights advocacy as a form of legal-political practice.

The possibilities are significant. Majumdar's work has consistently elevated the standards of Bangladeshi civil society advocacy by connecting specific domestic cases and patterns to the international legal frameworks that provide both normative guidance and rhetorical authority. Her ability to articulate Bangladeshi human rights concerns in the language of international law has made her a credible interlocutor for international human rights institutions and donor governments, and has given her advocacy a reach and impact that purely domestically framed advocacy might not achieve.

The limitations are equally significant. Majumdar has faced consistent accusations, most frequently from nationalist and Islamist political actors, of serving as an instrument of Western neo-imperialism, of using international human rights standards as a mechanism for undermining Bangladesh's cultural and religious identity, and of pursuing an agenda shaped by the priorities of her international funders rather than the authentic concerns of Bangladeshi citizens. These accusations are not entirely without foundation, in the sense that international human rights organizations and donor governments do have their own political priorities that do not always align perfectly with the priorities of the Bangladeshi communities they claim to support. The challenge for Majumdar, as for all human rights advocates who work at the interface of domestic and international advocacy, is to maintain the credibility and independence of her work in both directions, demonstrating to international partners that her advocacy reflects genuine local realities and demonstrating to Bangladeshi audiences that her engagement with international standards is in the service of genuinely Bangladeshi values and interests rather than external agendas.

Majumdar's specific position on the ICC jurisdiction question reflects her deepest internationalist commitments. She has been, among our seven subjects, the most consistent and explicit advocate for opening ICC preliminary examinations into the August 2024 killings, arguing that the domestic accountability process, however well-intentioned, lacks the independence and institutional capacity to prosecute the most senior figures responsible for the killings, including

potentially Hasina herself. Her position connects to the complementarity principle in a specific way: she argues that the test of "genuinely unwilling or unable" that the Rome Statute requires for ICC admissibility is satisfied in the Bangladeshi case not because the government is unwilling to prosecute in good faith, but because the institutional limitations of the judicial system, including the lack of adequate investigative capacity and the persistent influence of political considerations on judicial processes, mean that the domestic process cannot be relied upon to deliver genuine accountability at the highest levels.

This argument is legally sophisticated but politically contested. It implies a determination that Bangladesh's domestic legal system, even post-reform, is structurally incapable of genuinely independent investigation and prosecution, which is a strong claim that sits in tension with the judicial independence reforms that the post-August period has produced. The internal tension in Majumdar's position between her advocacy for judicial independence reform and her skepticism about the domestic justice system's capacity for accountability in high-profile political cases reflects a genuine uncertainty about the pace and depth of institutional change in Bangladesh's judicial system.

The controversy around Majumdar's international advocacy has generated internal tensions within the human rights community in Bangladesh. Some younger advocates, particularly those who emerged from the student movement and who are skeptical of what they perceive as the previous generation's dependency on international patronage, have questioned whether Majumdar's framework adequately reflects the specifically Bangladeshi character of the accountability demand. Their critique, which draws on decolonial theory and on the Global South critique of international human rights law, is that the framing of Bangladeshi accountability demands in the language of international criminal law reproduces a hierarchy in which Global South states are subject to international legal scrutiny while the standard-setters and adjudicators remain concentrated in the Global North. This is a serious intellectual challenge that Majumdar has engaged with in public lectures and writings, though her response has not fully resolved the tension between her internationalist commitments and the decolonial critique.

Bobby Hajjaj: The Nationalist Pragmatist

Bobby Hajjaj's engagement with international law reflects a consistent nationalist framework that treats international legal standards as relevant but not authoritative, and that prioritizes Bangladesh's sovereign interests, as he defines them, over compliance with international norms that he perceives as externally imposed. This framework is not irrational and has significant intellectual antecedents in the tradition of legal realism in international law, which challenges the idealist assumption that international legal rules operate as genuine constraints on state behavior and argues instead that states comply with international law primarily when it serves their interests.

The critical question about Hajjaj's nationalist framework is whether it provides adequate guidance for the specific legal and political decisions that Bangladesh actually faces. The invocation of sovereignty as a trump card in international legal debates is intellectually coherent in the abstract but practically limited as a guide to decision-making in specific situations. When Bangladesh needs cooperation from India on water sharing, from the US on trade access, from

China on infrastructure financing, or from the UN system on Rohingya repatriation, the assertion of sovereign rights must be translated into specific legal arguments, negotiating strategies, and institutional commitments. Hajjaj's nationalist rhetoric is effective at mobilizing domestic political support but less developed as a practical framework for the complex diplomatic and legal work that effective foreign policy requires.

The internal conflicts within Hajjaj's approach to international law are visible in his treatment of the Rohingya question. His nationalist framework commits him to a strong assertion of Bangladeshi sovereignty in managing the Rohingya situation, including skepticism of international NGO involvement in the camps and resistance to UNHCR's authority over protection standards. But his humanitarian instincts, which are genuine and reflected in his public statements about the suffering of the Rohingya population, pull him toward a more cooperative engagement with international institutions that have the resources and expertise to address the humanitarian crisis. The tension between these two commitments has produced an inconsistent public record on the Rohingya question that critics have characterized as reflecting an attempt to satisfy nationalist audiences while avoiding the political consequences of taking a clear and consistent position on the legal framework for managing the crisis.

Hajjaj's treatment of the extradition controversy is similarly revealing. His public statements on India's refusal to extradite Hasina have been more assertively nationalist than those of any other of our seven subjects, including repeated demands that India comply with its treaty obligations and statements linking Bangladesh's cooperation on a range of bilateral issues to India's conduct on the extradition question. The legal content of these statements is not always precise, and Hajjaj's invocation of specific treaty provisions has occasionally involved inaccuracies that undermine the credibility of his legal argument. But the political logic is clear: he is positioning himself as the most uncompromising defender of Bangladeshi sovereignty against Indian pressure, a positioning that has significant electoral appeal in the current political environment.

The controversy generated by Hajjaj's nationalist rhetoric on international law questions has extended to internal conflicts within the political networks he inhabits. His more assertive statements on India have been criticized by figures within the BNP-aligned political community who believe that the new government needs to manage the India relationship with greater diplomatic care, and who worry that Hajjaj's rhetoric creates obstacles to the quiet diplomacy that is most likely to produce productive outcomes on questions like the Ganges water treaty renewal. These internal conflicts reflect a broader tension within the BNP's foreign policy approach between the nationalist assertiveness that resonates with its base and the diplomatic restraint that effective management of asymmetric bilateral relationships requires.

Barrister Suman: The Criminal Defence Internationalist

Barrister Suman's engagement with international law has been primarily through the lens of his criminal defence practice, which has brought him into direct contact with international criminal law standards in the context of cases arising from the August 2024 killings and their aftermath. His approach to international law is technical and practice-oriented rather than theoretical, focused on the application of specific standards and procedures in specific cases rather than on broader questions of legal philosophy or strategic positioning.

This technical orientation has several significant advantages. Suman's public commentary on international law questions is generally more legally precise than that of the more politically oriented figures in our seven-subject study. His analysis of the extradition framework, the command responsibility doctrine, and the complementarity principle in international criminal law, examined in the preceding chapters, reflects a lawyer's close engagement with the specific rules and their application rather than a politician's invocation of international law as a rhetorical resource.

The limitations of Suman's approach are also significant. His technical orientation can produce a form of legal tunnel vision that misses the broader political and institutional context within which legal arguments must be advanced to be effective. The question of accountability for the August 2024 killings is not merely a technical legal question about command responsibility and complementarity. It is a profoundly political question about how Bangladesh manages the transition from a period of serious human rights violations to a new political order that claims to be built on different values. The technical legal answers to specific procedural questions are important, but they must be embedded in a broader institutional and political strategy if they are to produce genuine accountability rather than merely formal proceedings.

Suman's internal conflicts on the international law dimension of the accountability question reflect his dual role as a defence barrister and a public advocate. As a defence barrister, his professional obligation is to represent his clients zealously within the law, which in the context of accountability cases sometimes requires challenging the legal framework that international advocates are seeking to apply. As a public advocate for accountability and the rule of law, he has argued for robust application of international criminal law standards. The tension between these two roles is not unique to Suman; it is inherent in the position of the lawyer-advocate, who must balance professional obligations to clients with broader commitments to the legal system and its underlying values. But the tension has been particularly acute in the post-August context, where the political stakes of the accountability process are extremely high and where the line between legal advocacy and political positioning is frequently crossed.

Mohammad Shishir Manir: The Institutional Sovereigntist

Mohammad Shishir Manir's engagement with international law has been consistently focused on the relationship between international legal standards and Bangladesh's domestic institutional development, with a particular emphasis on the judicial independence dimension. His advocacy for judicial independence, examined in earlier parts of this textbook, connects to a sophisticated understanding of the international standards on judicial independence embedded in the UN Basic Principles on the Independence of the Judiciary (1985), the Bangalore Principles of Judicial Conduct (2002), and the various General Comments issued by the Human Rights Committee on the judicial independence requirements of the ICCPR.

Manir's institutional sovereigntism distinguishes him from both the pure internationalists and the pure nationalists among our seven subjects. He neither simply defers to international standards as authoritative guides for domestic institutional design nor dismisses them as irrelevant impositions on Bangladeshi sovereignty. Instead, he treats international standards as valuable resources for thinking about institutional design problems that are genuinely difficult, while

maintaining that the specific forms in which those standards are implemented must reflect Bangladeshi institutional realities and political constraints rather than abstract international templates.

This nuanced position has made Manir a credible interlocutor across a wide range of political and institutional constituencies. His voice is respected in the judiciary, in the bar, in civil society, and in the political community. But it has also made him a target of criticism from both directions: from internationalists who regard his emphasis on domestic institutional realities as a form of apologetics for institutional inadequacy, and from nationalists who regard his engagement with international standards as a form of deference to external authority that is inconsistent with full Bangladeshi sovereignty.

The internal conflict most visible in Manir's public engagement with international law questions concerns the question of ICJ proceedings and other international legal mechanisms for accountability. Manir has been consistently cautious about the invocation of international legal mechanisms in the context of Bangladesh's post-August accountability process, arguing that the primary site of accountability must be the domestic legal system and that premature internationalization of the process creates risks of politicization that undermine rather than strengthen the cause of genuine justice. His caution reflects a genuine concern about the way in which international legal mechanisms can be captured by political agendas that are not primarily concerned with justice for victims, but it also reflects a defensiveness about Bangladesh's institutional capacity that may underestimate the progress that post-August reforms have actually produced.

Manir's most significant contribution to the international law debate in the post-August period has been his analysis of the relationship between the post-August constitutional reform process and Bangladesh's treaty obligations under the ICCPR and other human rights instruments. He has argued, in multiple academic and public venues, that the Constitutional Reform Commission's proposals, including the strengthening of fundamental rights provisions, the independence of the National Human Rights Commission, and the establishment of an Ombudsman with genuine investigative authority, represent a significant alignment of Bangladesh's constitutional framework with its international treaty obligations. His analysis provides a jurisprudential foundation for the argument that Bangladesh's post-August constitutional transformation constitutes a genuine and legally significant improvement in its compliance with international human rights standards, which has implications for both the domestic legitimacy of the reform process and for Bangladesh's engagement with international human rights monitoring bodies.

Rumeen Farhana: The Parliamentary Internationalist

Rumeen Farhana's engagement with international law has evolved significantly as her political position has changed. In the opposition period, examined in Parts Two and Three of this textbook, her engagement with international law was primarily through the lens of her advocacy for the human rights of opposition activists who were subjected to what she characterized as politically motivated prosecutions under the Hasina government. She consistently invoked ICCPR standards on fair trial rights, the right to liberty and security of person, and the right to

political participation in her public advocacy, creating a record of international human rights engagement that is broadly consistent and legally credible.

In her post-election role within the BNP government, the character of Farhana's international law engagement has inevitably changed. She is no longer in a position of challenging a government's compliance with international standards but must participate in a government that is itself accountable to those standards. The transition from opposition advocate to governing party representative is one of the most significant tests of the integrity of a politician's commitment to principle versus their political loyalties, and Farhana's track record in this transition is not yet fully established given the recent date of the BNP's return to power.

Her early statements as a member of the governing coalition have maintained the framework of human rights commitment while navigating the complexities of governmental responsibility. She has been particularly engaged with the CEDAW dimensions of the new government's policy agenda, consistently arguing for concrete implementation of Bangladesh's treaty obligations on gender equality in the new legislative agenda. Her advocacy for direct elections to women's parliamentary seats, discussed in Part Four, continues in the new governmental context and reflects a genuine continuity of commitment that has not been abandoned for the comfort of power.

The internal tensions in Farhana's international law positions are most visible in her treatment of the India question and the Hasina extradition controversy. As a member of a government that is simultaneously demanding Hasina's extradition and managing a complex diplomatic relationship with India, she has had to navigate between assertive sovereignty rhetoric and responsible diplomatic caution. Her public statements have generally been more measured than Hajjaj's on this question, reflecting a more institutional and diplomatic orientation that recognizes the limits of assertive rhetoric as a tool of actual foreign policy. The question of whether this moderation reflects mature diplomatic judgment or political accommodation of a position that conflicts with her genuine convictions is one that her subsequent conduct will help to answer.

Andaleeve Rahman: The Multilateralist Institutionalist

Andaleeve Rahman's engagement with international law has been the most systematic and institutionally oriented of our seven subjects, reflecting his background in constitutional reform advocacy and his deep engagement with comparative constitutional design. His approach treats international law not primarily as a source of specific rights and obligations but as a framework of institutional design principles that should inform Bangladesh's domestic constitutional development.

Rahman's most distinctive contribution to the international law debate in the post-August period has been his analysis of Bangladesh's obligations and opportunities within the United Nations system, with particular attention to the Universal Periodic Review process of the Human Rights Council. The UPR is a mechanism through which all UN member states have their human rights records reviewed by peers on a cycle of approximately four and a half years. Bangladesh's most recent UPR took place in November 2023, and the recommendations of that review, which covered a wide range of human rights concerns including judicial independence, freedom of

expression, the treatment of minorities, and the rights of migrant workers, have taken on new significance in the post-August context as benchmarks for evaluating the interim government's and the new elected government's conduct.

Rahman has consistently argued that the UPR recommendations provide a useful and legitimate benchmark for the post-August reform process, both because they represent a multilateral consensus of the international community about Bangladesh's human rights priorities and because they provide a framework for international engagement that is less subject to the accusations of neo-imperialism that bilateral pressure from Western states sometimes attracts. The UPR process, which involves peer review by all states including the Global South states whose views carry particular legitimacy in the Bangladeshi political context, represents a form of multilateral accountability that is more defensible from a sovereignty standpoint than bilateral conditionality imposed by powerful states.

Rahman's advocacy for Bangladesh's engagement with the UPR process has been connected to his broader argument for what he calls "constructive multilateralism," a foreign policy orientation that treats international institutions not as external constraints on Bangladesh's sovereignty but as arenas in which Bangladesh can pursue its interests and advocate for its values alongside other states with similar concerns. His multilateralist orientation connects to the academic literature on the relationship between small states and international institutions, which suggests that small states have strong structural incentives to support and strengthen multilateral institutions because those institutions provide forums where small states can exercise influence that their individual power positions would not otherwise allow.

The internal tensions in Rahman's multilateralist framework are most visible in his treatment of the tension between multilateral human rights standards and the positions of Bangladesh's most important bilateral partners. China's membership in the UN Human Rights Council alongside its support for Myanmar's junta, its resistance to any multilateral action on the Rohingya crisis, and its broader resistance to international human rights accountability mechanisms creates a specific problem for a multilateralist framework that treats UN institutions as reliable forums for advancing human rights concerns. Rahman has engaged with this tension in public discussions but has not fully resolved it, acknowledging that the UN system's effectiveness on specific issues is constrained by the political dynamics of great power competition within UN institutions.

CHAPTER FIFTY-ONE: TREATY OBLIGATIONS AND THE NEW GOVERNMENT'S INTERNATIONAL LEGAL AGENDA

The BNP Administration and the Architecture of International Legal Commitment

The BNP government that assumed power following the February 2026 elections inherited a complex international legal landscape defined by the treaty obligations of previous governments, the specific diplomatic consequences of the August 2024 transition, and the expectations of international partners that the new government would represent a genuine departure from the democratic backsliding and human rights violations of the Hasina era. Managing this inheritance

while pursuing the new government's own political agenda requires sophisticated international legal management of a kind that has not always been a BNP strength.

The new government's treaty obligation portfolio is extensive. Bangladesh is party to nine core UN human rights treaties, each of which carries periodic reporting obligations and, in some cases, individual complaints mechanisms. It is party to numerous bilateral investment treaties that create obligations of fair and equitable treatment of foreign investors and that are relevant to the new government's economic agenda, including its plans for attracting foreign investment in the garment, technology, and green energy sectors. It is party to regional trade arrangements including the SAFTA framework and the various bilateral preferential trade arrangements that Bangladesh has negotiated with its trading partners. And it is party to a range of multilateral environmental agreements, including the Paris Agreement on climate change, whose implementation is a significant priority given Bangladesh's extreme vulnerability to climate change impacts.

The human rights treaty reporting obligations deserve particular attention because they are both legally significant and politically relevant to the new government's positioning. Bangladesh's treaty reports under the ICCPR, the Convention Against Torture, and CEDAW are all due for review within the next two years, and the Human Rights Committee, the Committee Against Torture, and the CEDAW Committee will all have questions about the conduct of the Hasina government, including the August 2024 killings, the treatment of opposition activists, and the restrictions on freedom of expression and assembly. The new government's response to these treaty body inquiries will be one of the most visible tests of its commitment to international human rights accountability, and the quality of its responses will significantly affect its credibility with international human rights institutions and the donor governments that follow those institutions' assessments.

Rumeen Farhana's role in the new government's human rights treaty reporting is likely to be significant given her background in human rights advocacy and her engagement with international treaty standards. Her participation in the preparation of Bangladesh's treaty reports, if it occurs, would bring a level of substantive expertise and genuine commitment to the process that has sometimes been lacking in Bangladesh's previous treaty reporting, which has been criticized by treaty bodies for being excessively descriptive of legal frameworks and insufficiently honest about implementation gaps.

The investment treaty portfolio creates specific challenges for the new government's economic agenda. Several of Bangladesh's existing bilateral investment treaties were negotiated under conditions that critics have characterized as insufficiently protective of Bangladesh's regulatory sovereignty, including provisions for investor-state dispute settlement through arbitration that could expose Bangladesh to significant financial liability if regulatory changes in the public interest are characterized by investors as violations of fair and equitable treatment standards. The current global debate about investment treaty reform, reflected in the work of UNCTAD and various regional reform initiatives, is directly relevant to Bangladesh's treaty policy, and the new government's approach to investment treaty renegotiation will have significant implications for its capacity to pursue a development agenda that prioritizes social and environmental goals alongside economic growth.

Mohammad Shishir Manir's analysis of the investment treaty question has been one of the more sophisticated interventions in this area. He has noted that Bangladesh's investment treaty obligations create a form of international legal constraint on domestic regulatory policy that is distinct from but analogous to the constitutional constraints that domestic law imposes on government action. The investor-state dispute settlement mechanism, under which foreign investors can bring claims against Bangladesh in international arbitration for regulatory changes that they allege violate their treaty-protected investment rights, represents a form of external accountability that can be invoked without the consent of the Bangladeshi government and that can result in binding arbitral awards enforceable against Bangladesh's foreign assets. Manir's argument is that this form of international legal constraint must be managed with the same institutional rigor and transparency that applies to the domestic constitutional constraints on government action, and that the current arrangements for managing investment treaty risks are inadequate.

The Paris Agreement and Climate Justice

The Paris Agreement on climate change represents one of Bangladesh's most significant and consequential international legal commitments, not because of its formal legal architecture, which does not create binding emissions reduction obligations, but because of its significance as a framework for international cooperation on the issue that represents Bangladesh's greatest long-term existential threat. Bangladesh's vulnerability to climate change is among the highest in the world: the country's low-lying geography makes it extremely susceptible to sea-level rise, cyclones, and flooding, and climate-related disasters already cause massive economic and human costs annually.

The legal and jurisprudential dimensions of the climate justice debate are directly relevant to the positions that several of our seven subjects have taken on international law questions. The concept of climate justice, which argues that the states and communities most vulnerable to climate change are disproportionately the least responsible for causing it and are therefore owed specific forms of support and compensation by the states whose historical emissions have primarily caused the problem, has emerged as one of the most significant themes in contemporary international environmental law. Bangladesh, as a country that has contributed negligibly to global greenhouse gas emissions while facing catastrophic consequences from climate change, is one of the paradigm cases for the climate justice argument.

Andaleeve Rahman has been the most engaged of our seven subjects with the climate justice dimension of Bangladesh's international legal position. His arguments on this question draw on the concepts of equity and common but differentiated responsibilities embedded in the UNFCCC framework and developed in the Paris Agreement's differentiation between developed and developing country obligations. Rahman has argued, in alignment with the positions of the most vulnerable country group of which Bangladesh is a leading member, that the international community's response to climate change must include not merely mitigation and adaptation assistance but legally binding loss and damage compensation for the damage already being caused to vulnerable states by climate change that they did not cause.

The legal status of the Loss and Damage fund established at COP27 in 2022 and operationalized at COP28 in 2023 is directly relevant here. The fund represents a significant political achievement for vulnerable states including Bangladesh, but its legal architecture is weaker than advocates had hoped: contributions are voluntary rather than legally mandated, the fund's governance structure is still being developed, and the amounts committed are a small fraction of the estimated costs of climate-related loss and damage in vulnerable countries. Rahman's advocacy for strengthening the loss and damage framework, including through the development of binding international legal obligations for compensation, connects his international law engagement to the most immediate existential concerns of the Bangladeshi population.

CHAPTER FIFTY-TWO: INTERNATIONAL CRIMINAL ACCOUNTABILITY AND THE POST-AUGUST RECKONING

The Architecture of Accountability: Domestic, Hybrid, and International Options

The accountability process for the killings of the July-August 2024 uprising is the most legally complex and politically consequential aspect of Bangladesh's post-August transformation, and its international dimensions are particularly significant because they engage the full range of international criminal justice mechanisms developed over the past three decades. This chapter examines the three main institutional options for accountability, their legal architecture, their respective advantages and disadvantages in the Bangladeshi context, and the specific positions and contributions of each of our seven subjects to the accountability debate.

The three main options are: first, purely domestic accountability through Bangladeshi courts, potentially including special tribunals established specifically for the purpose; second, a hybrid tribunal that combines elements of domestic and international justice, with international participation in staffing, investigation, and procedure; and third, full internationalization of the accountability process through the ICC or another international criminal justice mechanism.

The domestic option has the advantages of legal continuity, political legitimacy, and national ownership of the process. It also faces significant challenges: the independence of the Bangladeshi judiciary, however improved by the post-August reforms, has not been tested by the prosecution of a former Prime Minister and her senior colleagues; the investigative capacity of Bangladesh's law enforcement and prosecutorial services may be insufficient for the complex evidentiary demands of international crimes cases; and the political pressures on the accountability process, from both those who want maximal prosecution and those who want to shield specific individuals from accountability, are intense and persistent.

The hybrid option, modelled on examples including the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, and the Kosovo Specialist Chambers, would involve the creation of a tribunal that applies Bangladeshi law while incorporating international judges, prosecutors, and procedural standards into the institutional design. Hybrid tribunals have several advantages in contexts like Bangladesh: they provide international legal expertise and credibility without full internationalization of the process, they help to insulate the tribunal from

some forms of domestic political pressure, and they create a more robust institutional framework for managing the complex evidentiary and procedural demands of international crimes cases.

The ICC option, discussed earlier in this chapter, involves the full internationalization of the accountability process but is subject to the complementarity constraint that limits ICC jurisdiction to cases where the domestic process is genuinely inadequate. The ICC option is also the slowest and most uncertain: ICC investigations typically take many years from opening to prosecution, and the Court's conviction rate in completed cases has been lower than advocates initially hoped.

Barrister Suman's advocacy has consistently favoured a modified domestic option with strong international monitoring, essentially a domestic accountability process enhanced by transparent engagement with international human rights monitoring bodies and technical assistance from the UN and other international institutions. His position reflects both his genuine belief in the capacity of reformed Bangladeshi institutions and his professional orientation toward domestic legal processes. The critical question about his position is whether the domestic process he advocates can actually deliver accountability at the highest levels of the former government, given the political constraints on prosecuting senior figures who retain significant political networks and legal resources.

Nijhum Majumdar has been the most consistent advocate for a hybrid tribunal option, arguing that the domestic process alone, even with international monitoring, cannot reliably deliver genuine accountability given the scale of the institutional reform needed and the time required to build genuinely independent investigative and prosecutorial capacity. Her advocacy for a hybrid tribunal draws on the Sierra Leone and Cambodia precedents, noting that those tribunals, despite their imperfections, delivered a form of accountability for serious crimes that would not have been achievable through purely domestic processes in those contexts.

The specific legal questions about how a hybrid tribunal would be established in Bangladesh deserve examination. A hybrid tribunal could be established by domestic legislation creating a special court with provisions for international participation, by a bilateral agreement between Bangladesh and the United Nations under which the UN provides institutional and technical support for a domestic accountability process, or by a resolution of the UN Security Council establishing an international tribunal, the most politically unlikely option given China's and Russia's veto power and their consistent resistance to Security Council-authorized international criminal tribunals outside the contexts of the former Yugoslavia and Rwanda.

The bilateral agreement option, modelled on the agreements that established the Cambodia and Sierra Leone hybrid tribunals, would require the UN to agree to participate in the Bangladeshi accountability process on terms acceptable to both the UN and the Bangladeshi government. The UN's agreement to participate would likely require commitments regarding the independence of the tribunal from political interference, the adequacy of procedural safeguards for defendants, the transparency of the process, and the scope of the tribunal's jurisdiction. Negotiating these terms in the highly charged political environment of post-August Bangladesh would be a significant diplomatic and legal challenge.

The Question of Amnesties and Transitional Justice

The accountability debate in Bangladesh has taken place alongside a debate about transitional justice mechanisms, including the question of whether amnesties or other forms of immunity from prosecution might be appropriate for lower-level actors in the August 2024 crackdown in exchange for their cooperation with accountability processes targeting higher-level decision-makers. The concept of transitional justice, developed in the context of post-authoritarian transitions in Latin America, Eastern Europe, and Africa, encompasses a range of mechanisms including criminal prosecution, truth commissions, reparations, institutional reform, and memorialization, and engages directly with the tension between the demand for accountability and the practical requirements of political transition.

The international legal framework governing amnesties in transitional justice contexts has evolved significantly over the past three decades, moving from a relatively permissive approach, under which states had wide discretion to grant amnesties as part of peace or transition agreements, to a significantly more restrictive approach that prohibits amnesties for the most serious crimes under international law, including genocide, crimes against humanity, and war crimes. The ICC's position, articulated in the Rome Statute's provisions and in the Court's jurisprudence, is that amnesties for crimes within the Court's jurisdiction are incompatible with the obligation of states to genuinely investigate and prosecute international crimes.

The specific application of the amnesty prohibition to lower-level actors in the Bangladesh accountability context is a legally nuanced question. The prohibition clearly applies to those who bear the greatest responsibility for the most serious crimes, including those who planned, ordered, and oversaw the systematic use of lethal force against protesters. For lower-level actors, including individual police officers who followed orders to fire on protesters, the legal and moral calculus is more complex. International criminal law recognizes superior orders as a potential defense for individual actors in some circumstances, though the defense is significantly limited by the requirement that the order be not manifestly unlawful and that the actor not know the order to be manifestly unlawful. In the Bangladesh context, the question of whether individual officers who fired on unarmed protesters can avail themselves of the superior orders defense is a factual and legal determination that depends on the specific circumstances of each case.

Barrister Suman's professional experience as a criminal defence barrister is directly relevant to the amnesty and transitional justice debate. His public statements on this question have been carefully calibrated to acknowledge the importance of full accountability at the highest levels while recognizing the legitimate distinction between those who planned and ordered the use of lethal force and those who implemented those orders in the specific circumstances of operational deployment. His argument is not for blanket amnesty but for a differentiated accountability framework that focuses the most intensive prosecutorial attention on those who bear the greatest responsibility while treating lower-level actors through mechanisms that may include conditional amnesty, truth-telling, reparations, and institutional reform rather than criminal prosecution in every case.

This position reflects the influence of the South African truth and reconciliation model, whose legal architecture Suman has engaged with in public discussions. The South African TRC, which

granted conditional amnesty to perpetrators of gross human rights violations in exchange for full disclosure of their crimes to the commission, represented a specific response to the specific conditions of South Africa's negotiated transition from apartheid. Its transposition to the Bangladeshi context raises significant questions about the comparability of the two situations, including the existence of a powerful former ruling party with strong organizational capacity that creates different incentive structures for cooperation than existed in South Africa, and the absence of the negotiated transition model that shaped the South African process.

Andaleeve Rahman has engaged most systematically with the comparative transitional justice literature in his analysis of Bangladesh's options. His analysis draws on the substantial empirical scholarship on the effectiveness of different transitional justice mechanisms, including the work of Leigh Payne, Tricia Olsen, and Andrew Reiter, whose comparative research across multiple post-authoritarian transitions suggests that combinations of truth commission processes and criminal prosecutions tend to produce better human rights outcomes and better democratic consolidation than either mechanism alone. Rahman's argument is that Bangladesh should consider establishing a formal truth-seeking mechanism alongside the criminal accountability process, creating a comprehensive transitional justice architecture that addresses the full range of the August 2024 violations and their systemic roots in the institutional conditions of the Hasina era.

The International Law of Asylum and Hasina's Status in India

The legal status of Sheikh Hasina as a political guest in India raises specific questions in the international law of asylum and refugee protection that are distinct from but related to the extradition questions examined in Chapter Forty-Six. The distinction between asylum and extradition reflects a fundamental tension in international law between the right of states to grant asylum to persons seeking protection from persecution and the right of states to demand the surrender of persons accused of crimes through formal extradition processes.

Classical international asylum law, reflected in the Declaration on Territorial Asylum adopted by the UN General Assembly in 1967, recognizes the right of states to grant asylum to persons fleeing persecution, and provides that the grant of asylum is a peaceful and humanitarian act that should be respected by all states. The Declaration also provides, however, that the right of asylum may not be invoked by persons with respect to whom there are serious reasons for considering that they have committed a crime against peace, a war crime, or a crime against humanity. This limitation is directly relevant to Hasina's status, because if her conduct in authorizing or failing to prevent the August 2024 killings constitutes crimes against humanity, the classical exception to asylum protection would apply.

India has not formally characterized its hospitality toward Hasina as the grant of asylum under international law. The Indian government has described her presence in India in terms of humanitarian reception rather than formal asylum. This distinction has some legal significance: formal asylum under the 1951 Refugee Convention and its Protocol would trigger specific legal obligations including non-refoulement, while informal humanitarian reception does not carry the same formal legal protections. But the practical effect is the same: India is providing Hasina with

a safe haven from prosecution in Bangladesh, and the legal label attached to that provision does not change the political and diplomatic consequences.

The Human Rights Law Network, with which Nijhum Majumdar has maintained close connections, has published a detailed legal analysis of India's obligations under international law with respect to Hasina's presence. The analysis argues that India's continued reception of Hasina, in the face of formal extradition requests supported by credible allegations of international crimes, constitutes a violation of India's treaty obligations under the 1974 extradition agreement and potentially of its broader obligations under customary international law. The analysis also argues that India's conduct is inconsistent with its own stated commitments to accountability for international crimes, including its support in multilateral forums for the principle that serious human rights violators should not enjoy impunity.

These legal arguments have not, as of April 2026, produced any movement in India's position on the extradition question. The gap between legal arguments and political outcomes is a familiar one in international law: states frequently have clear legal obligations that they decline to fulfill when the political costs of compliance are sufficiently high. India's assessment that the costs of surrendering Hasina, including the potential impact on its relationship with the Awami League network that remains significant in Bangladeshi civil society and the risks of encouraging the precedent that neighbouring governments can be removed through popular pressure, exceed the costs of maintaining her presence, is fundamentally a political calculation that legal arguments alone cannot override.

The political avenues through which Bangladesh might increase pressure on India to reconsider its position are limited but not absent. The most effective avenue is probably the multilateral one: engaging international human rights institutions, including the Human Rights Committee and the Committee Against Torture, to issue statements on India's obligations under international law with respect to Hasina's extradition; building coalitions with like-minded states to raise the issue in UN forums; and ensuring that the Bangladesh-India relationship is managed in ways that make India's continued protection of Hasina politically and economically costly. This multilateral strategy is precisely the approach that Andaleeve Rahman has advocated most consistently, and it represents the most sophisticated available response to the structural limitations of bilateral pressure on a much more powerful neighbor.

CHAPTER FIFTY-THREE: INTERNATIONAL LEGAL EDUCATION, PROFESSIONAL DEVELOPMENT, AND THE REFORM OF LEGAL CULTURE

The Formation of Internationally Literate Legal Practitioners

The international dimensions of Bangladesh's post-August legal and political transformation cannot be fully navigated by a small number of individual figures, however capable and committed. They require a legal profession and a legal culture that is broadly literate in the international legal standards, concepts, and procedures relevant to the Bangladesh situation. The development of international legal literacy in Bangladesh's legal profession is therefore a

structural priority of the first order, and the specific contributions that several of our seven subjects have made and might make to this development deserve examination.

The current state of international law education in Bangladesh's law schools is mixed. The leading institutions, including Dhaka University's Faculty of Law, the University of Rajshahi's Law Department, and the private universities that have established law programs of varying quality over the past two decades, include international law in their curricula, but the depth and quality of that coverage varies enormously. The international law coverage in most Bangladeshi law schools focuses primarily on the foundational doctrines of public international law, including sources of international law, the law of treaties, the law of state responsibility, and the UN system, without always providing students with the more specialized knowledge of international human rights law, international criminal law, international trade law, and international investment law that the post-August legal landscape requires.

The Bangladeshi bar's continuing legal education programs have not systematically addressed international law as a priority area. The rapid development of international law as a field relevant to Bangladeshi legal practice, accelerated by the post-August transition and its international dimensions, creates a significant professional development need that the bar's institutional structures are not currently well-positioned to meet.

Barrister Asaduzzaman Fuad's reform agenda has included proposals for strengthening international law teaching and professional development, consistent with his broader emphasis on institutional capacity building as the foundation of sustainable reform. His advocacy for partnerships between Bangladeshi law schools and international law institutions, including UN bodies, international courts, and comparative law research centers, reflects an understanding that international legal literacy is a form of institutional capacity that must be deliberately built rather than assumed to emerge spontaneously.

Barrister Suman's criminal defence practice has made him a practitioner-teacher in the international criminal law dimension, and he has engaged in public lectures and workshops aimed at sharing with Bangladeshi lawyers the international criminal law standards and procedures relevant to the accountability process. His role as a practical educator in this context is significant: the translation of international criminal law's complex technical standards into practical guidance for Bangladeshi lawyers operating in specific cases is a form of legal education that textbooks alone cannot provide.

Mohammad Shishir Manir's advocacy for judicial education on international law standards is connected to his broader judicial independence agenda. He has consistently argued that judicial independence is not merely a matter of institutional design but of professional culture, and that Bangladeshi judges require sustained exposure to international standards on judicial independence, fair trial rights, and the application of international law in domestic proceedings to develop the professional culture that genuine independence requires. His advocacy has extended to specific proposals for mandatory continuing education requirements for judges, including study of international judicial standards.

Rumeen Farhana's experience as a practitioner in both domestic constitutional cases and in advocacy involving international human rights standards gives her a perspective on legal education that combines the theoretical and the practical in productive ways. She has used her public platform to argue for a reconception of legal education in Bangladesh that treats international law not as a specialized subdiscipline but as an integral dimension of the general legal knowledge that all competent lawyers in the contemporary world need. Her argument, delivered in multiple lectures and public statements, is that the positivist separation of domestic and international law that characterizes traditional legal education is analytically outdated and practically harmful, because it produces lawyers who are unprepared to navigate the increasingly international dimensions of legal practice in areas ranging from commercial disputes to human rights advocacy.

The Role of Legal Scholarship in International Law Development

The development of a vibrant academic legal scholarship on international law in Bangladesh is both an independent educational priority and a precondition for the kind of sophisticated public debate about international law questions that the post-August situation requires. The present state of Bangladeshi international law scholarship is characterized by a relatively thin body of indigenous academic work and a heavy reliance on imported frameworks from English, American, and Indian legal scholarship. This dependence on imported frameworks is not without value: the accumulated wisdom of international legal scholarship in these jurisdictions is a genuine resource for Bangladeshi legal development. But it also carries risks: the frameworks developed in the context of Global North legal systems may not adequately capture the specific realities of Bangladesh's situation as a small, post-colonial state navigating the intersection of major power competition, extreme climate vulnerability, mass refugee hosting, and ongoing constitutional transformation.

The development of a specifically Bangladeshi international law scholarship, one that takes the universal resources of international legal theory seriously while applying them to the specific conditions and experiences of Bangladesh, is a long-term project that requires sustained institutional investment in legal research infrastructure, including library resources, research fellowships, publication outlets, and connections to the international legal academic community. Several of our seven subjects have made modest contributions to this project through their public writings, but a more systematic institutional commitment is needed.

Andaleeve Rahman's most distinctive contribution to this project has been his development of what he calls a "small state jurisprudence" of international law, an approach that takes seriously the specific structural position and interests of small and vulnerable states in the international legal system and that challenges the assumption that international law development should be evaluated primarily from the perspective of the major powers that have historically dominated it. His argument draws on the Third World Approaches to International Law (TWAIL) tradition, which has produced a substantial body of scholarship challenging the ways in which international law has been shaped by colonial and neo-colonial power relations and has often served the interests of powerful states at the expense of weaker ones.

The TWAIL tradition, represented by scholars including Antony Anghie, Makau Mutua, and Bhupinder Chimni, argues that the apparently neutral and universal principles of international law are in fact historically embedded in the project of European colonialism and continue to serve the interests of former colonial powers and their successors in the current global order. The non-interference principle, for example, can be read not merely as a protection of weaker states' sovereignty but as a protection of the colonial order's division of the world into spheres of influence that continues to benefit the more powerful states that established those spheres. The free trade principles embedded in WTO law can be read as the consolidation of a trading order that favours the already-developed industrial economies over the developing states that are seeking to industrialize through the same infant industry protection strategies that the now-developed states used during their own industrialization.

Rahman's engagement with the TWAIL tradition, while less systematic than his engagement with comparative constitutional law, has been productive in illuminating the structural dimensions of Bangladesh's international legal situation. His argument that Bangladesh should approach international law from a posture of critical engagement rather than passive acceptance, using international legal frameworks selectively to advance its interests while challenging those aspects of international law that serve to reproduce the inequalities of the existing international order, represents a sophisticated and coherent international law philosophy that deserves more systematic development than it has received in the public debate.

CHAPTER FIFTY-FOUR: SOVEREIGNTY IN THE AGE OF INTERCONNECTION

Philosophical Reflections on the Transformation of the Westphalian Order

The preceding chapters of Part Five have engaged with specific international law questions from a primarily doctrinal and comparative perspective. This concluding chapter undertakes a more explicitly philosophical examination of the transformation of sovereignty in the contemporary international legal order and its implications for the seven figures at the centre of this study.

The concept of sovereignty, as H. Lindahl has argued, is not a simple or stable concept but one that has been continuously contested and transformed throughout the history of international relations. The Westphalian conception of sovereignty as the absolute and exclusive authority of a state over its territory and population, while never fully realized in practice, provided the dominant normative framework for international relations from the seventeenth century through most of the twentieth. The post-World War II period has produced a fundamental transformation of this conception through two parallel processes: the development of international human rights law, which subjects states' treatment of their own populations to international legal standards; and the development of international economic institutions, including the WTO, the IMF, and the World Bank, which constrain states' economic policy choices through binding international obligations and conditionality mechanisms.

The concept of sovereignty that emerges from this transformation is what Stephen Krasner has called "organized hypocrisy," a gap between the formal sovereign equality proclaimed in the UN

Charter and the actual distribution of power, authority, and obligation in the international system. This gap is particularly wide for small and vulnerable states like Bangladesh, which simultaneously proclaim their sovereign equality and depend on the resources, markets, and protection of more powerful states for their survival and development. The philosophical question this raises is not merely descriptive, how does the gap between formal sovereignty and effective sovereignty operate, but normative: what should sovereignty mean for a state in Bangladesh's position, and how should that conception of sovereignty guide the international law choices of legal-political actors like our seven subjects?

Jürgen Habermas's concept of the "postnational constellation," developed in his 2001 book of that name, provides one philosophical framework for addressing this question. Habermas argues that the increasing integration of the global economy, the development of transnational governance institutions, and the emergence of global civil society have created a postnational political space in which the classical nation-state framework is no longer adequate as the primary institutional container for democratic self-governance. His argument, developed in the context of European integration but applicable to the global context, is that democratic legitimacy must follow the scope of political decisions: as economic and political decisions increasingly have transnational effects, the democratic accountability for those decisions must also become transnational.

The Habermasian argument has significant implications for Bangladesh's post-August constitutional transformation. If the decisions of major powers, international financial institutions, and transnational corporations significantly affect the conditions of life of Bangladeshi citizens, then Bangladeshi citizens have a democratic interest in the governance of those transnational decision-making processes that cannot be fully satisfied through the domestic constitutional framework alone. The participation of Bangladesh and similar states in multilateral institutions, treaty negotiations, and international governance processes becomes, in the Habermasian framework, not merely a foreign policy choice but a dimension of democratic governance.

Carl Schmitt's concept of the political, and his critique of liberal international law, provides a useful counter-perspective to the Habermasian internationalism. Schmitt argued that international law's aspiration to transcend the friend-enemy distinction that is, for Schmitt, the fundamental category of the political is both intellectually incoherent and politically dangerous. The invocation of universal humanitarian principles to justify intervention in the affairs of specific states invariably reflects the particular interests of the intervening powers, and the universalist language of international human rights law masks rather than eliminates the political conflicts that it claims to resolve. The Schmittian perspective has genuine analytical purchase on the Bangladeshi situation: the selective invocation of sovereignty by major powers when it suits their interests and the equally selective invocation of human rights principles when those suit their interests is a pattern visible throughout the history of Bangladesh's international relationships.

The most philosophically satisfying response to the tension between the Habermasian internationalism and the Schmittian realism is, arguably, the one that Seyla Benhabib develops in her concept of "democratic iterations," a process through which the meaning of universal rights claims is continuously renegotiated through democratic deliberation at multiple levels, local,

national, and transnational, without any single level claiming final authority over the others. In the Bangladeshi context, this framework suggests that the post-August constitutional transformation should be understood not merely as a domestic process of institutional redesign but as a moment in an ongoing international conversation about the meaning of democracy, sovereignty, and human rights that Bangladesh can actively shape rather than merely receive.

This philosophical framework connects to the specific contributions of our seven subjects to the international law debate. Each of them, in their different ways, is participating in the ongoing negotiation of what international law means for Bangladesh in the post-August moment. Fuad's reform internationalism, Majumdar's human rights universalism, Hajjaj's nationalist pragmatism, Suman's technical accountability advocacy, Manir's institutional sovereigntism, Farhana's parliamentary internationalism, and Rahman's multilateralist institutionalism are all specific positions in this ongoing negotiation. None of them is obviously correct in all respects. But taken together, they represent a genuine intellectual and political engagement with the international dimensions of Bangladesh's post-August transformation that is more sophisticated, more diverse, and more potentially productive than the international law debate that characterized earlier periods of Bangladeshi political and legal history.

International Law and the New Constitutional Settlement

The constitutional reform process, examined in depth in Parts One through Four of this textbook, has significant international law dimensions that have not been fully integrated into the reform debate. The proposed new constitutional text, drawing on the Constitutional Reform Commission's January 2025 report and the subsequent political negotiations, must be evaluated not merely against the standards of Bangladeshi constitutional tradition and comparative constitutional design but against the international treaty obligations that the new constitution must be capable of implementing.

The most significant international law dimension of the constitutional reform debate concerns the relationship between the new constitution's fundamental rights provisions and Bangladesh's ICCPR obligations. The ICCPR is one of the most legally precise international human rights instruments, containing specific provisions on civil and political rights that set clear minimum standards for constitutional protection. The current constitutional text's fundamental rights provisions are broadly aligned with ICCPR standards but have been interpreted in ways that fall short of those standards in some respects, particularly in relation to the limitations clauses that allow restrictions on fundamental rights under conditions that are broader than the ICCPR's requirement that restrictions be necessary in a democratic society and proportionate to the legitimate aim pursued.

The reform commission's proposals for strengthening the fundamental rights provisions include the adoption of more ICCPR-aligned limitations clauses that would bring Bangladesh's constitutional framework closer to international standards. These proposals have been supported by Manir and Rahman in public commentaries, and the legal arguments for their adoption are strong. The challenge is political rather than legal: the adoption of more restrictive limitations on the government's power to restrict fundamental rights would constrain future governments' capacity to use constitutional mechanisms for purposes that are politically convenient rather than

legally justified. The political actors who must approve the new constitutional text have an obvious interest in retaining flexibility to invoke limitations clauses in ways that serve their political interests, even if the invocation of those clauses is legally unjustified.

The specific question of the constitutional protection of freedom of expression, including the protection of online expression and the right to criticize government officials, is directly connected to the Digital Security Act controversies examined in Part Three. The new constitution should, in the assessment of Manir, Rahman, Majumdar, and Farhana, include a constitutional provision protecting freedom of expression in terms that are clearly incompatible with the DSA's approach to online speech, thereby creating a constitutional foundation for challenging DSA-style legislation in future. The question of whether the BNP government will actually support such a provision, given that the BNP itself has at times benefited from restrictions on political expression when those restrictions targeted its opponents, is one of the central tests of the new government's constitutional good faith.

The constitutional protection of the right to peaceful assembly and protest deserves specific attention in the post-August context. The killings of protesters during the uprising occurred in a context where the right to peaceful assembly was formally guaranteed by the constitution but was effectively suppressed by the government's response to the protests. The constitutional reform must address not merely the formal guarantee of the right but the institutional mechanisms, including civilian accountability for security force conduct, independent oversight of decisions to use force against protesters, and effective legal remedies for violations of the right, that are necessary to give the constitutional guarantee genuine operational effect.

Rumeen Farhana's advocacy has been most specific on the question of effective legal remedies for human rights violations, arguing that the constitutional reform must include provisions for an effective domestic remedy for all constitutional rights violations, consistent with Article 2(3) of the ICCPR, which requires that states parties ensure that every person whose rights are violated shall have an effective remedy. The current constitutional framework provides for the Supreme Court's writ jurisdiction as the primary remedy for constitutional rights violations, but the accessibility, independence, and effectiveness of the writ jurisdiction in practice have been significantly limited by the politicization of the judiciary under the Hasina governments. Farhana's argument is that effective constitutional remedies require not merely the formal guarantee of writ jurisdiction but specific institutional reforms to the legal aid system, the independence of the judiciary, and the enforcement mechanisms for court orders that give the formal remedy genuine practical content.

Assessment: The International Law Dimension of the Post-August Transformation

The analysis undertaken in Part Five permits several major conclusions about the international law dimension of Bangladesh's post-August transformation and about the specific contributions, limitations, and unresolved tensions in the international law engagement of our seven subjects.

The first conclusion is that the international legal dimensions of the post-August transformation are pervasive, complex, and consequential in ways that the domestic-focused public debate has not always adequately recognized. The accountability process for the August 2024 killings, the

India extradition controversy, the Rohingya crisis, the great power dynamics of the Bangladesh-China-India-US relationship, the treaty obligations of the new government, and the constitutional reform process all have significant international law dimensions that require sophisticated legal analysis and management. The quality of Bangladesh's engagement with these international law questions will significantly affect the durability and quality of the post-August transformation.

The second conclusion concerns the relative strengths and weaknesses of our seven subjects' engagement with international law. Barrister Asaduzzaman Fuad's reform internationalism is coherent and productive but requires more consistent attention to the most vulnerable populations. Nijhum Majumdar's human rights universalism is the most genuinely principled engagement with international standards but faces political challenges that require more sophisticated management than her current approach always provides. Bobby Hajjaj's nationalist pragmatism captures important truths about sovereignty and power asymmetry but provides insufficient guidance for the complex legal and diplomatic work of effective foreign policy. Barrister Suman's technical accountability advocacy is legally precise and practically grounded but sometimes misses the broader institutional and political dimensions of the accountability question. Mohammad Shishir Manir's institutional sovereigntism is the most nuanced framework for managing the tension between international standards and domestic sovereignty but requires more political courage in its application than Manir has always demonstrated. Rumeen Farhana's parliamentary internationalism represents a promising model for integrating international law commitments into the work of democratic governance but is still being tested by the realities of governing power. Andaleeve Rahman's multilateralist institutionalism is the most systematically developed international law philosophy among our seven subjects and provides the strongest foundation for Bangladesh's long-term international legal development.

The third conclusion concerns the relationship between the domestic constitutional reform process and Bangladesh's international legal obligations. The alignment of the new constitutional framework with Bangladesh's international treaty obligations is not merely a formal requirement but a substantive priority that can strengthen the new constitution's democratic legitimacy by grounding it in the universal values of human dignity, equality, and the rule of law that international human rights law embodies. The specific provisions on fundamental rights, effective remedies, judicial independence, and the accountability of public officials should all be designed with explicit attention to the international standards that Bangladesh has committed to uphold.

The fourth conclusion is about the direction of travel. The post-August transformation has moved Bangladesh's international law engagement in a generally positive direction, toward greater openness to international accountability mechanisms, greater alignment with international human rights standards, and greater willingness to engage critically with the asymmetric bilateral relationships that have historically constrained Bangladesh's effective exercise of sovereignty. This positive direction is not guaranteed to continue: the structural pressures of power asymmetry, the political incentives for selective compliance with international standards, and the persistent tension between sovereignty and human rights accountability will continue to create challenges for all future Bangladeshi governments.

The most important single factor in determining whether the positive direction is sustained will be the quality of the institutions and the culture of the legal profession that the post-August transformation produces. An independent judiciary that applies international human rights standards with integrity, a bar that maintains professional independence from partisan political pressures, a civil society that can hold governments accountable through both domestic and international mechanisms, and a legal scholarship that develops rigorous and critical frameworks for understanding Bangladesh's international legal situation are all essential components of a durable and effective engagement with international law. Our seven subjects, as practitioners, advocates, and public intellectuals at the intersection of law and politics, have significant opportunities to contribute to the development of these institutional capacities, and the quality of their contributions will be a significant determinant of Bangladesh's international legal future.

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End of Part Five

Part Six: The New Parliament, Legislative Agenda, and the Constitutional Reform Process

Part Seven: Comparative Perspectives, Theoretical Conclusions, and Assessment of Future Trajectories

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This concludes Part Five of "Voices of the Bar and the Barricade." Part Five has examined the international legal dimensions of Bangladesh's post-August transformation through eight chapters covering the constitutional architecture of foreign relations law, the India question and the Hasina asylum controversy, international human rights accountability, the Rohingya crisis, great power dynamics, the specific international law positions of all seven subjects, treaty obligations of the new government, and the philosophical dimensions of sovereignty in the age of interconnection. The analysis has drawn on recent developments through April 2026, including the BNP's election victory in February 2026, Tarique Rahman's assumption of the

prime ministership, the ongoing India-Bangladesh diplomatic tensions, and the continuing Rohingya crisis. Part Six will proceed to examine the new parliament's legislative agenda and the specific constitutional reform provisions that the post-August transformation has produced.

PART SIX: THE NEW PARLIAMENT, LEGISLATIVE AGENDA, AND THE CONSTITUTIONAL REFORM PROCESS

PREFACE TO PART SIX

Parts One through Five of this textbook established the biographical, philosophical, jurisprudential, and international legal foundations necessary to understand the seven figures at the centre of this study. They examined the historical architecture of Bangladeshi constitutional law, the formative influences on each of our seven subjects, the specific controversies and internal conflicts of the transitional period between August 2024 and February 2026, and the international legal dimensions of the post-uprising transformation. The analysis was, of necessity, substantially retrospective, building the intellectual apparatus required to make sense of events whose full significance was still unfolding.

Part Six turns decisively to the present moment. On February 12, 2026, Bangladesh held its thirteenth national parliamentary election alongside a simultaneous constitutional referendum on the July National Charter, an event described by multiple international observers as the most consequential democratic exercise the country had conducted in well over a decade. The Bangladesh Nationalist Party, led from London by Tarique Rahman, secured a commanding victory, winning 209 of the 299 contested seats on its own account and 212 seats when allied parties are included, producing a parliamentary majority that exceeds the two-thirds threshold required for constitutional amendments. Tarique Rahman was sworn in as Prime Minister on February 17, 2026, becoming the eleventh person to hold that office in independent Bangladesh's history. Simultaneously, 60.26 percent of voters endorsed the July National Charter in the referendum, delivering a popular mandate for the most ambitious constitutional reform program in Bangladesh's post-independence history.

The results produced a political landscape of unusual clarity and unusual complexity simultaneously. The clarity is structural: a single party with a supermajority, an organized opposition of 77 seats led by Jamaat-e-Islami and the student-born National Citizen Party, and a clear popular endorsement for constitutional transformation. The complexity is constitutional, philosophical, and deeply connected to the specific careers and positions of all seven of our subjects. The dual oath crisis that erupted on the very day of parliament's swearing-in, when BNP members of parliament refused to take the second oath as members of the proposed Constitution Reform Council while Jamaat and NCP members took both oaths, produced the first major institutional conflict of the new political dispensation before a single bill had been introduced or a single word of legislation debated.

Part Six examines all of this with the analytical depth and jurisprudential seriousness that the subject demands. Seven principal chapters examine the architecture and composition of the new parliament, the constitutional logic and political stakes of the dual oath crisis, the specific provisions of the July National Charter and their relationship to Bangladesh's foundational jurisprudential debates, the BNP government's legislative agenda as revealed in its election manifesto and early parliamentary conduct, the specific positions and roles of each of our seven subjects in the new parliamentary context, the substantive legislative priorities across the range of domains that the post-uprising transformation has made urgent, and the philosophical and theoretical conclusions that the legislative agenda generates for the comparative study of constitutional democracy. The chapter on the substantive legislative priorities is particularly extensive, because the bills and reforms now before or contemplated for the new parliament represent the translation of the jurisprudential arguments developed across the entire textbook into concrete legal instruments whose design and content determine whether the philosophical commitments of the post-August moment produce genuine institutional transformation or merely rhetorical restatement in statutory form.

The question animating Part Six is the same fundamental question that has animated this textbook from its opening pages, applied now with specific precision to the legislative moment: whether the lawyers and legal thinkers examined here, operating within and around the new parliament, will use the extraordinary opportunities that the post-August moment has created to build a legal and constitutional order genuinely consistent with the values of dignity, equality, accountability, and the rule of law that they have each, in their different registers, proclaimed, or whether the structural pressures of partisan interest, institutional inertia, and the intoxication of power will reproduce, in new and perhaps more sophisticated forms, the patterns of constitutional instrumentalization that have characterized Bangladesh's entire post-independence history.

CHAPTER FIFTY-FIVE: THE ARCHITECTURE OF THE NEW PARLIAMENT

Electoral Mechanics, Seat Distribution, and the Arithmetic of Reform

The thirteenth national parliamentary election of February 12, 2026, was conducted under an electoral framework that had been substantially modified by the interim government's reform program during the preceding eighteen months. The modifications included the reintroduction of the "no vote" option for single-candidate constituencies, enhanced disclosure requirements for candidates' financial assets and liabilities, reforms to the voter roll verification process, and changes to the campaign finance rules designed to reduce the influence of illicit money in electoral politics. The election was observed by a substantial contingent of domestic and international observers, and while reports documented 393 incidents of irregularities and clashes across the country, the overall verdict of most observer missions was that the election represented a meaningful improvement over the thoroughly discredited elections of 2014, 2018, and 2024.

The seat distribution produced by the election is worth examining in some detail, because the specific numbers matter enormously for the constitutional reform agenda. Of the 299 seats for which results were declared, the BNP won 209 seats outright, with its allied parties winning an additional 3 seats to bring the coalition total to 212. Bangladesh Jamaat-e-Islami won 68 seats in its own right, with allied parties and the National Citizen Party accounting for the remaining 9 seats in the opposition bloc, for a total opposition presence of 77 seats. A small number of independent members were elected, including Rumeen Farhana from Brahmanbaria-2, who ran as an independent after the BNP declined to give her the party nomination in her constituency. The 50 additional reserved seats for women are allocated proportionally among the parties on the basis of their share of seats in the elected chamber, which produces an additional allocation substantially favouring the BNP.

The significance of the BNP's two-thirds supermajority extends beyond the immediate constitutional context. It means that the BNP government can, in principle, pass constitutional amendments without the support of any opposition party, a situation that is both an opportunity and a risk of the highest order. It is an opportunity because it removes the veto power that a smaller governing coalition would face from a determined minority, enabling the constitutional reform agenda to advance with parliamentary efficiency. It is a risk because the existence of unchecked constitutional amendment power in the hands of a single party has been, in every previous instance in Bangladesh's history, a temptation toward the partisan manipulation of constitutional provisions for sectoral advantage rather than in the public interest. The Fourth Amendment of 1975, which enabled Mujibur Rahman's one-party state, the Fifth Amendment of 1979, which legitimized Ziaur Rahman's coup and its constitutional consequences, and the Fifteenth Amendment of 2011, which abolished the caretaker system and set the stage for the electoral deterioration of the subsequent decade, were all accomplished through two-thirds supermajority parliaments dominated by single parties. The historical record is not encouraging.

The composition of the opposition is also jurisprudentially significant. Jamaat-e-Islami, which won 68 seats making it the largest single opposition party by a considerable margin, brings into the new parliament an ideological tradition rooted in Islamist political philosophy that has not previously been present at this scale in Bangladesh's democratic history. The party's registration had been cancelled in 2013 on grounds of its opposition to Bangladesh's independence in 1971 and constitutional violations, and its dramatic comeback in 2026, winning 31.76 percent of the vote share, signals a significant realignment in Bangladeshi electoral politics. The presence of a large Jamaat opposition with a distinct constitutional philosophy, including positions on secularism, minority rights, and the relationship between Islamic law and constitutional law, creates a legislative environment in which the constitutional reform debates will not be conducted exclusively between factions of the BNP political tradition but will involve genuine ideological contestation.

The NCP's six seats, while modest in number, carry disproportionate symbolic weight as the parliamentary expression of the student movement that drove the uprising. Nahid Islam, 27 years old and one of the principal leaders of the 2024 student movement, became one of the youngest members of parliament in the new chamber, providing a direct living connection between the uprising's demands and the legislative process. The NCP's manifesto commitments, including dissolution of the Rapid Action Battalion, recognition of the July Revolution and massacre as

state-acknowledged events, introduction of whistleblower protection legislation, and radical expansion of women's reserved seats to 100, represent the most ambitious reform program among any party represented in parliament and will serve as a benchmark against which the BNP government's actual legislative production can be measured.

The Constitutional Architecture of Parliamentary Authority

Understanding the new parliament's capacity to deliver the constitutional reform that the July National Charter mandates requires careful attention to the constitutional provisions that govern parliamentary authority and the amendment process. Article 65 of the Constitution establishes the Jatiya Sangsad as the supreme legislative body of the republic and vests all law-making power exclusively in it. The supremacy of parliament in the constitutional framework is both a source of extraordinary power and a constraint on extra-parliamentary mechanisms for constitutional change. It is this supremacy that provides the legal foundation for the BNP's refusal to take the second oath as members of the Constitution Reform Council, and it is this supremacy that the competing constitutional interpretation offered by Jamaat and the NCP must ultimately address.

Article 142 of the Constitution establishes the amendment procedure. A bill to amend the Constitution must be passed by not less than two-thirds of the total number of members of parliament, and the President must assent to it within seven days of its being presented to him. The simplicity of this amendment procedure, which requires only a parliamentary supermajority and presidential assent with no additional requirements such as referendum confirmation or ratification by regional bodies, reflects the Westminster parliamentary tradition within which the original 1972 constitution was designed. But it also reflects the experience of the Hasina governments, which used the same supermajority process to accomplish constitutional changes that were, in the assessment of a broad range of constitutional scholars, fundamentally inconsistent with the democratic values the constitution was designed to protect. The referendum on the July National Charter represents, in part, a response to the perceived inadequacy of the existing amendment procedure as a sufficient safeguard for constitutional democracy.

The relationship between the referendum result and the Article 142 amendment procedure is the central constitutional puzzle of the post-election moment, and it is a puzzle that our seven subjects have engaged with in characteristically different ways. The puzzle can be stated simply: the referendum endorsed 47 specific constitutional changes contained in the July National Charter. The constitutional basis for the referendum itself is disputed, with the Daily Star's constitutional commentary noting that Bangladesh's constitution does not clearly provide for such a vote, raising questions about its legal standing. If the courts were to find the July Charter Implementation Order of 2025 unconstitutional, the referendum could face a challenge that would leave the BNP government's constitutional reform agenda legally unmoored.

The High Court challenge to the July Charter and its supporting referendum, filed by a group of lawyers whom opposition figures have characterized as aligned with the BNP, represents precisely this legal risk. The petition raises the fundamental constitutional question of whether a referendum authorized by executive order, rather than by a specific constitutional provision or parliamentary legislation, can generate binding constitutional authority. The answer to this

question will determine whether the July National Charter's 47 proposed changes are treated as mandatory constitutional amendments that the new parliament is legally obligated to enact, as politically authoritative but legally non-binding expressions of popular preference that the parliament may use as guidance, or as constitutionally void instruments that have no legal effect on the parliamentary agenda.

Mohammad Shishir Manir's engagement with this constitutional question has been the most technically precise of our seven subjects. His public analysis, delivered in a series of lectures at Dhaka University's Faculty of Law in March 2026, argued that the referendum's constitutional status should be determined by reference to the principle of popular sovereignty rather than by formal legal technicality, and that a referendum result endorsed by more than 60 percent of voters cannot be treated by the courts as constitutionally void without producing a legitimacy crisis that would dwarf any procedural legal deficiency. His argument is essentially a fusion of legal realism, which recognizes that legal institutions must take account of the political realities within which they operate, and democratic theory, which holds that majoritarian popular expression carries a form of authority that formal constitutional procedures cannot entirely override. The argument is politically persuasive but legally incomplete: it does not adequately address the concern that treating popularly endorsed but constitutionally irregular processes as binding sets a precedent that could be used by future governments to circumvent constitutional safeguards in ways that the electorate at the time of approval might not have intended.

CHAPTER FIFTY-SIX: THE DUAL OATH CRISIS

Constitutional Legitimacy, Democratic Mandate, and the Anatomy of an Institutional Conflict

The events of February 17, 2026, the day of the new parliament's swearing-in, crystallized the constitutional tensions of the post-election moment with a clarity and specificity that extended legal arguments abstract in principle into concrete institutional drama visible on live television. Understanding the dual oath crisis requires both a precise account of the events and a rigorous analysis of the competing constitutional arguments they embody.

The sequence of events is documented in detail. The oath-taking ceremony for the 296 newly elected Members of Parliament began at approximately 10:36 in the morning at the National Parliament complex. Chief Election Commissioner AMM Nasir Uddin administered the oath. The BNP's 208 newly elected MPs took the standard constitutional oath as members of parliament as prescribed in the Third Schedule of the Constitution. When the time came to administer the second oath as members of the proposed Constitutional Reform Council, BNP MPs did not participate. BNP leader Salahuddin Ahmed, speaking to reporters at the outset of the ceremony, explained the party's position with precision that would become one of the most quoted legal statements of the new parliamentary era: none of us was elected as a member of the Constitutional Reform Council, he said; the council is not even a part of the constitution yet; it will be considered legitimate only when it is approved by the elected parliament. The instruction

to refuse the second oath had come directly from Tarique Rahman as party chairman, and it was followed with complete discipline by all 208 BNP parliamentarians.

The response of the opposition bloc was initially one of threatened boycott. Jamaat's Nayeb-e-Ameer Syed Abdullah Mohammad Taher told reporters before the ceremony that no alliance MP would take the oath if BNP lawmakers did not participate in the reform council. But after internal deliberation, the Jamaat-led alliance proceeded with both oaths. Jamaat MPs took their parliamentary oath at 12:23 in the afternoon and their Constitution Reform Council oath at 12:27 the same afternoon, with the Chief Election Commissioner administering both. The NCP's six newly elected MPs subsequently took both oaths as well, with NCP spokesperson Asif Mahmud writing on Facebook after the ceremony that the alliance had crossed the threshold of 60 members required by the Implementation Order to establish the Reform Council, as the Jamaat-led bloc's 77 MPs had taken the council oath even in the absence of the BNP's participation.

Rumeen Farhana's conduct on oath-taking day was, characteristically, the most individually distinctive and analytically interesting of any of the seven subjects who held parliamentary seats after the election. Having won the Brahmanbaria-2 constituency as an independent candidate, contesting under the "duck" symbol after the BNP declined to give her the party nomination in that constituency, she occupied a position of legal and political independence that none of the other six subjects enjoyed. She took her parliamentary oath alongside the Jamaat MPs at 12:23 in the afternoon. But when the time came for the Reform Council oath, she left the room, her departure captured on the live televised feed of the ceremony that was broadcast across Bangladesh. She neither took the council oath with the opposition nor refused it with the explicit and principled reasoning that the BNP had articulated. Her departure was, in the most literal sense, a political abstention: she was present enough to affirm her parliamentary commitment but absent at the precise moment of commitment to the extra-constitutional reform structure.

The legal significance of Farhana's abstention is greater than her departure might suggest. As a barrister trained in the adversarial tradition, she understands that an unexplained absence from a constitutional ceremony can itself be a statement with legal and political content. Her departure said, in effect, that she was not prepared to give institutional legitimacy to the Reform Council in its current form while also not being prepared to align herself with the BNP's procedurally grounded but politically convenient refusal. The position is philosophically coherent: it reflects a genuine uncertainty about the constitutional legitimacy of the Implementation Order and its referendum while also maintaining a genuine commitment to constitutional reform that stops short of endorsing a mechanism whose legal foundation she finds uncertain.

The Competing Constitutional Arguments in Full

The constitutional debate generated by the dual oath crisis can be understood through three distinct analytical frames, each corresponding to a different tradition of legal thought.

The first frame is that of constitutional formalism, the tradition associated with H.L.A. Hart's legal positivism and, in the specific context of constitutional law, with the textual and structural interpretation methods of legal scholars who argue that constitutional meaning must be derived from the text and structure of the constitutional document rather than from political aspirations or

democratic sentiment. The BNP's constitutional argument is substantially formalist in character. It rests on the observation that Article 65 of the Constitution vests legislative authority exclusively in the parliament, that the Constitution's amendment procedure in Article 142 provides the only legitimate pathway for constitutional change, that the Third Schedule's prescribed parliamentary oath makes no mention of any oath relating to a constitutional reform council, and that the Implementation Order's creation of a constitutional reform body through executive action rather than through parliamentary legislation or constitutional amendment is therefore legally invalid. The BNP's argument is not formalist in the narrow sense of ignoring constitutional context and purpose: Salahuddin Ahmed's statement explicitly acknowledged the legitimacy of constitutional reform as a goal and the BNP's commitment to implementing the July Charter. But it insists that legitimate reform requires legitimate procedure, and that the procedure embodied in the dual oath ceremony is constitutionally defective.

The second frame is that of democratic constitutionalism, the tradition associated with Ronald Dworkin's argument that constitutional interpretation must be responsive to the moral principles that animate the constitutional document rather than merely to its textual surface, and with the popular constitutionalism scholarship that argues for the legitimacy of constitutional meaning that emerges from sustained democratic engagement rather than exclusively from judicial interpretation. The Jamaat and NCP argument for the dual oath is substantially democratic constitutionalist in character. It rests on the observation that more than 60 percent of voters endorsed the July Charter in a nationwide referendum, that this democratic mandate creates obligations on elected officials that are not captured in the formal requirements of the Third Schedule, and that refusing to implement a clearly expressed popular will on technical procedural grounds is itself a form of constitutional betrayal. Barrister Mir Ahmed Bin Quasem's Facebook post ahead of the ceremony, declaring that the opposition MPs were taking two oaths and would not let July go, captured the democratic constitutionalist position in its most emotionally powerful form: the July uprising and its constitutional commitments are a moral obligation that supersedes procedural technicality.

The third frame is that of pragmatic constitutionalism, the tradition associated with James Bradley Thayer, Oliver Wendell Holmes, and their successors, which counsels constitutional deference to legislative and popular judgment except in cases of clear and unambiguous constitutional violation, and which is skeptical of judicial and procedural mechanisms that substitute formal legal determinations for the rough-and-tumble of democratic politics. Mohammad Shishir Manir's position on the dual oath crisis most closely approximates the pragmatic constitutionalist frame, though Manir would resist the label of pragmatist given his genuine commitment to constitutional principle. His argument is that both the BNP's formalist position and the opposition's democratic constitutionalist position capture important truths while missing each other's most powerful insights, and that the resolution of the conflict requires not a judicial determination of which position is formally correct but a political negotiation in which both sides acknowledge the legitimacy of the other's concerns and craft a procedural compromise that achieves the substantive goals of constitutional reform within a constitutionally defensible framework.

The High Court Petition and Its Implications

The High Court petition challenging the constitutionality of the July Charter Implementation Order and the referendum introduces a fourth actor into the constitutional drama: the judiciary itself. The petition, filed by lawyers whom opposition figures have characterized as BNP-aligned, asks the court to declare the Implementation Order unconstitutional on grounds that it was issued by executive authority without parliamentary authorization, that it created a constitutional referendum mechanism not provided for in the Constitution, and that the dual oath ceremony authorized by the order purports to create a constitutional body through unconstitutional means.

The petition creates a legal dilemma for the BNP government that is more complex than its formalist parliamentary arguments suggest. If the BNP government supports the petition, or even fails to oppose it vigorously, it is essentially arguing that the referendum it participated in and whose result it has pledged to implement is constitutionally void, which would undermine both its legitimacy with the 60.26 percent of voters who voted Yes and its stated commitment to constitutional reform. If the government opposes the petition and argues for the referendum's constitutional validity, it is effectively arguing against its own parliamentary position that the Reform Council has no constitutional basis, creating an incoherence that opponents will exploit. The BNP's attempt to navigate this dilemma by simultaneously pledging to implement the July Charter through the parliamentary amendment process and refusing to participate in the Implementation Order's specific mechanism for doing so is constitutionally coherent in principle but politically precarious in practice, because the opposition and civil society reform advocates will treat any deviation from the Implementation Order's specific procedures as evidence of bad faith.

Barrister Asaduzzaman Fuad's engagement with the High Court petition deserves particular attention because of his specific expertise in constitutional law and his position outside the parliament following his defeat in Barisal-3. Fuad's electoral loss, examined in detail in the next chapter, has liberated him from the parliamentary constraints that would otherwise shape his public positions and allowed him to engage with the constitutional crisis from the perspective of a legal scholar and opposition party leader rather than a parliamentarian subject to party discipline. His analysis of the High Court petition, published in the form of extended social media posts and media interviews in March 2026, argues that the petition is procedurally premature and constitutionally misdirected, because the constitutional validity of the Implementation Order is ultimately a political question that the courts should not resolve through a determination that would effectively override a democratic referendum result. His argument draws on the political question doctrine in constitutional law, the tradition, associated in American jurisprudence with Baker v. Carr and its progeny, of judicial reluctance to adjudicate questions whose resolution depends primarily on standards committed to the political branches rather than law. Bangladesh's Supreme Court has not developed a fully articulated political question doctrine, but Fuad argues that the courts' track record of deference to parliamentary judgments on constitutional amendment questions provides a sufficient doctrinal foundation for the court to decline the petition's invitation to declare the referendum void.

Fuad's argument is legally interesting but does not fully resolve the constitutional difficulty. The political question doctrine operates as a rule of judicial restraint, not as a source of constitutional validity. Even if the courts decline to rule the referendum void, the question of whether the

Implementation Order creates binding legal obligations for the new parliament remains unanswered. The constitution's silence on referendums is not necessarily an endorsement of the Implementation Order's mechanism: it may reflect simply that the constitutional drafters in 1972 did not contemplate a mechanism of this kind, and that their silence should be read as neither permission nor prohibition. In the absence of clear constitutional text, the question of what authority the referendum result possesses becomes precisely the kind of contested constitutional interpretation question that requires either judicial resolution or political negotiation between the relevant actors.

CHAPTER FIFTY-SEVEN: THE JULY NATIONAL CHARTER IN DEPTH

Forty-Seven Constitutional Changes and Their Jurisprudential Significance

The July National Charter, which was approved by 68.59 percent of valid votes in the referendum, proposes 47 specific constitutional changes that represent the most comprehensive constitutional reform agenda Bangladesh has contemplated since the original drafting of the 1972 constitution. The full scope and specific content of these proposals deserve systematic analysis, because the legislative work of translating them into constitutional amendments will constitute the most consequential jurisprudential exercise of the new parliament's term.

The first cluster of proposed changes concerns the linguistic and national identity provisions of the constitution. The charter proposes that all mother languages spoken in Bangladesh will be recognized as state languages alongside Bengali, a change that has profound implications for the linguistic minority communities, including the various Adivasi languages of the Chittagong Hill Tracts and other regions, whose linguistic rights have been formally excluded from state recognition under the existing constitutional framework. The proposal reflects the influence of the sociolinguistic justice tradition in constitutional design, which draws on the work of scholars like Will Kymlicka and Charles Taylor on the political philosophy of minority language rights and the argument that a truly inclusive constitutional democracy must provide meaningful recognition for the linguistic identities of all its citizens, not merely the majority.

The proposal to replace "Bengali" with "Bangladeshi" as the nationality designation for citizens is perhaps the most symbolically charged of all the charter's proposals, touching as it does on the deep and contested question of national identity that has divided Bangladeshi political and intellectual life since independence. The Bengali nationalist tradition, associated with the Awami League and the founding narrative of liberation, defines Bangladeshis as Bengali in cultural and linguistic terms, asserting a continuity of identity with the Bengali-speaking population of India and a cultural inheritance that transcends the political boundary between Bangladesh and West Bengal. The Bangladeshi nationalist tradition, associated with the BNP and the constitutional changes of the Ziaur Rahman era, defines citizens of Bangladesh as a distinct national identity, Bangladeshi, that is not reducible to the ethnic and linguistic category of Bengali and that encompasses the diverse communities, including non-Bengali speakers and communities, who are citizens of the state. The charter's proposal reflects the BNP's longstanding position on this question and represents one of the clearest indicators of whose political values the July National

Charter actually embodies, notwithstanding its presentation as a product of a broad cross-party consensus.

The second cluster concerns the institutional architecture of parliament. The proposal for a bicameral parliament, with a 100-member upper house alongside the existing 350-member lower house, is the most structurally significant institutional change proposed in the charter. The constitutional design of the upper house has been the most contentious single issue in the charter's implementation, with the BNP favouring a seat-based allocation that would give the winning party in the lower house proportional dominance in the upper house as well, and Jamaat and the NCP favouring a genuine proportional representation mechanism that would ensure the upper house reflects the full range of political opinion in the electorate rather than amplifying the lower house majority.

The comparative constitutional experience of bicameral legislatures is directly relevant to assessing the merits of these competing designs. Arend Lijphart's comparative research on parliamentary systems identified bicameralism as one of the key features distinguishing majoritarian from consensus democratic models, and his analysis suggests that the effectiveness of bicameralism as a mechanism for protecting minority interests and moderating majoritarian tendencies depends critically on the degree of the upper house's political independence from the lower house. A weakly bicameral system, in which the upper house is dominated by the same political forces that control the lower house, provides minimal additional check on majoritarian excess. A strongly bicameral system, in which the upper house has different representational principles and genuine institutional independence, can provide a meaningful additional deliberative layer that improves legislative quality and protects minority interests.

The BNP's preference for a seat-based upper house allocation is, from a comparative constitutional perspective, a preference for weak bicameralism that would preserve the majoritarian dominance that the FPTP electoral system produces in the lower house. The charter's original proposal for a proportional representation upper house, endorsed by the NCP and Jamaat and supported by 71 percent of respondents in pre-election polling, represents the stronger bicameral model that comparative experience suggests is more effective at achieving the goals that bicameralism is designed to serve. The political stakes of this design choice are enormous: a genuinely independent upper house elected by PR would give the NCP, Jamaat, and other parties that win significant vote shares but relatively few FPTP seats a platform of ongoing constitutional significance. A BNP-dominated upper house would simply replicate the ruling party's dominance in a second chamber.

The third cluster of the charter's proposals concerns executive power and its constraints. The proposal to establish a ten-year term limit for the Prime Minister, endorsed in the BNP's own election manifesto, is one of the most straightforwardly aligned provisions between the charter and the BNP's stated positions. The term limit addresses the structural problem that contributed to both the Hasina governments' deterioration into authoritarian consolidation and the historical pattern of Bangladeshi politics in which long-term incumbency produces the colonization of state institutions by a ruling party's loyalists. The specific mechanism for counting the term, whether it is counted from the date of the constitutional amendment, from the date of the current term, or from some other starting point, is a drafting question with significant practical implications.

The proposal to enhance presidential powers is more ambiguous in its implications, because the relationship between an enhanced presidency and a powerful ruling party prime minister could work in two very different directions. If the president is genuinely independent and the enhanced powers include meaningful oversight of the executive, the change could provide an additional check on prime ministerial authority. If the president is effectively chosen by and aligned with the ruling party, enhanced presidential powers simply create an additional instrument for partisan control of state institutions. The institutional design of the presidential appointment process is therefore at least as important as the substantive powers being allocated, and the charter's proposals on appointment reform, which include enhanced parliamentary consultation requirements and civil society involvement, are the mechanisms through which the intent behind the enhanced presidential powers must be assessed.

The fourth cluster concerns judicial independence. The charter's proposals on judicial independence largely codify and constitutionalize reforms that were introduced by the interim government through ordinances, including the Supreme Court Secretariat Ordinance and the Judges Appointment Ordinance examined in Part Three. The constitutionalization of these reforms, converting them from ordinary legislation that can be repealed by a simple parliamentary majority into constitutional provisions requiring the two-thirds supermajority for amendment, is a significant protection for their durability. But the substantive adequacy of the proposals, including the independence of the judicial service commission that recommends appointments and the accountability mechanism for judicial conduct, requires scrutiny that goes beyond the formal constitutional protection of independence to the institutional design of the specific mechanisms.

The fifth cluster concerns women's representation and fundamental rights. The charter's proposals include increased representation of women in parliament, though the specific mechanism, whether through enhanced reserved seats, mandatory candidate quotas for political parties, or some other approach, is one of the areas where the implementation details are both most important and most politically contested. The charter also proposes an expansion of the fundamental rights provisions, including the enumeration of additional rights beyond those currently listed in Part III of the constitution, and the adoption of more robust limitations clauses that align more closely with ICCPR standards.

Nijhum Majumdar's engagement with the fundamental rights expansion proposals has been, as one would expect from the most consistently rights-focused of our seven subjects, the most substantively detailed and the most critical of implementation gaps. Her analysis, published as an extended commentary in the Daily Star's legal section in March 2026, identified several rights that the charter's proposals fail to enumerate despite their clear recognition in international human rights treaties to which Bangladesh is a party. These include the right to a clean and healthy environment, the rights of persons with disabilities, the right to adequate food and water, and specific protections for the rights of stateless persons including the Rohingya. Her argument is that the opportunity created by the constitutional reform moment should be used to bring Bangladesh's fundamental rights framework fully into alignment with its international treaty obligations, rather than simply constitutionalizing the existing rights in modified form.

The Caretaker Government Question: Historical Irony and Contemporary Stakes

The July National Charter's proposal to re-establish a neutral caretaker government mechanism for election-time administration is simultaneously the most historically freighted and the most practically urgent of the constitutional reforms on the agenda. The original caretaker system, introduced through the Thirteenth Amendment of 1996, was a unique constitutional innovation that attempted to solve the specific problem of Bangladesh's political culture: the deep and rational suspicion on the part of each major party that the other, if in power during an election, would use the machinery of government to ensure its own victory. The system worked with reasonable success in 1996 and 2001 before breaking down in 2006 and being abolished by the Fifteenth Amendment of 2011, an abolition that set the stage for the three consecutive elections of 2014, 2018, and 2024 whose credibility failures produced the conditions for the July uprising.

The proposal to re-establish the caretaker mechanism in some form is therefore an acknowledgment of a profound institutional failure and an attempt to design a better version of a mechanism whose first iteration, whatever its flaws, was more successful than what replaced it. The specific design of the new caretaker mechanism is one of the most technically demanding constitutional law questions on the new parliament's agenda, because the lessons of the 1996-2006 experience include both the demonstrated value of the mechanism and its demonstrated vulnerabilities. The key vulnerabilities include the difficulty of defining and identifying genuinely neutral technocrats capable of administering the government, the risk that the caretaker period can be extended indefinitely by the military or other actors who find it convenient, and the constitutional awkwardness of an unelected government with broad executive powers, which sits uneasily with democratic legitimacy principles.

Andaleeve Rahman's analysis of the caretaker mechanism question is the most historically and comparatively grounded of our seven subjects' contributions to this debate. His work, drawing on the comparative experience of election management bodies and caretaker arrangements in other South Asian democracies and in various African states that have attempted similar mechanisms, identifies three design principles that the new caretaker mechanism must incorporate to avoid reproducing the failures of its predecessor. The first is definitional precision: the criteria for identifying who qualifies as a neutral caretaker must be specified in constitutional or statutory text with sufficient precision to prevent partisan manipulation of the selection process. The second is temporal limitation: the caretaker period must have a constitutionally mandated maximum duration, with clear provisions for what happens if an election cannot be held within that period. The third is accountability: the caretaker government, though unelected, must be subject to some form of constitutional accountability that prevents it from acting as a de facto government with full executive authority rather than a neutral administrator of existing policies.

CHAPTER FIFTY-EIGHT: THE BNP'S LEGISLATIVE AGENDA AND THE FIFTY-ONE POINT MANIFESTO

A Legal-Philosophical Analysis of the Government's Programme

The BNP unveiled its election manifesto on February 6, 2026, six days before the election, presenting 51 commitments organized under nine major headings. The manifesto is a substantial

document that deserves detailed analytical attention, because it represents the most specific and publicly available statement of the BNP government's intended legislative program and because it embeds specific constitutional and legal commitments within a broader economic and social development agenda. The relationship between the manifesto's legal-constitutional commitments and the July National Charter's reform proposals is the central jurisprudential tension of the new government's legislative situation, and understanding that relationship requires examining both documents with sufficient precision to identify where they align, where they diverge, and where the divergences are significant enough to constitute genuine policy conflicts.

The manifesto is built on what the BNP calls its core principle of "Bangladesh Before All," a formulation that echoes the nationalist tradition associated with Ziaur Rahman while also gesturing toward the reform agenda that the post-August moment has made central to political legitimacy. The nine major commitments cover: a Family Card and Farmer Card social protection system; a corruption-free and humane healthcare system; an employment-oriented education system; youth job creation and skills development; environmental protection and climate resilience; religious and social harmony; expansion of the digital economy; constitutional and electoral reform; and a structural economic transformation programme designed to achieve a one trillion dollar GDP economy by 2034.

The constitutional and electoral reform commitment is obviously most directly relevant to this textbook's concerns. The manifesto pledges to introduce a 100-member upper chamber in parliament, to amend Article 70 of the Constitution to ensure MPs can express their opinions freely on all matters except votes of confidence, money bills, and national security issues, to reform the Constitution and the electoral system, to re-establish a neutral caretaker government for election administration, and to implement a ten-year term limit for the prime minister. These pledges are substantially aligned with the July National Charter's proposals, though the specific design of the upper chamber differs from the charter's original proportional representation proposal in the ways discussed in the preceding chapter.

The Article 70 reform pledge is jurisprudentially significant in ways that deserve extended analysis because it touches on one of the most persistent structural problems of Bangladesh's parliamentary democracy. Article 70 of the current constitution prohibits members of parliament from voting against their party's position on any matter in parliament, under pain of losing their parliamentary seat. The provision was originally designed to prevent the kind of floor-crossing that had destabilized parliamentary governments in the Pakistani political tradition from which Bangladesh's political culture partly derives, but in practice it has created a parliamentary culture of complete subordination to party leadership and has eliminated the meaningful exercise of individual parliamentary judgment that genuine legislative deliberation requires.

The reform of Article 70 has been advocated by constitutional scholars across the political spectrum for many years, and the charter's and manifesto's convergence on this point suggests genuine cross-party commitment. But the specific scope of the reform matters enormously. The manifesto's proposal to allow free voting on all matters except votes of confidence, money bills, and national security issues is a relatively expansive reform that would, if fully implemented, transform the character of parliamentary debate. The question is whether the BNP, which has benefited from its own tight party discipline and which has never governed with the free

parliamentary culture that Article 70 reform would create, will maintain this commitment when the political costs of free parliamentary expression by its own members become clear.

Bobby Hajjaj's response to the Article 70 reform question is revealing of the tension between his stated commitment to parliamentary democracy and his actual political instincts. Having won his parliamentary seat as a BNP candidate, Hajjaj now occupies the institutional position of a governing party backbencher, a position whose relationship to the Article 70 reform commitment he publicly championed before the election he will need to navigate with care. His pre-election statements on Article 70 were consistently supportive of full reform, arguing that the existing provision treats MPs as party delegates rather than representatives of their constituencies and is fundamentally incompatible with genuine parliamentary sovereignty. Whether he will exercise the freedom that reform of Article 70 would create, and whether he will do so even when the party leadership's position differs from his own judgment, is a test of integrity that his entire career's rhetorical framework has set up.

The manifesto's pledge on religious and social harmony is politically significant given the Jamaat-e-Islami's emergence as the principal opposition and the BNP's historical coalition with Jamaat that has at times been criticized for creating political space for religious intolerance. The pledge includes the reinstatement of "faith and trust in the Almighty Allah" to the constitution as a founding principle, replacing or supplementing the secularism that was one of the original four principles of 1972. This reflects the Ziaur Rahman era constitutional changes and represents a position on the secularism versus Islamic identity debate that is clearly incompatible with the strict secularism that the Awami League and some civil society voices advocate. The constitutional implications of this pledge for Bangladesh's religious minorities, including the Hindu, Buddhist, Christian, and Adivasi communities examined in Part Four, are significant and require careful legislative attention.

Rumeen Farhana's position on the religious harmony provisions of the manifesto is complicated by her independent parliamentary status. As a BNP politician who has contested as an independent, she is not formally bound by the BNP's manifesto commitments but is politically aligned with many of its positions. Her record on minority rights advocacy, examined in Part Two and Part Four, creates a pressure on her to advocate specifically for the minority-protective implications of the religious harmony pledge while resisting those aspects of the pledge that she regards as incompatible with constitutional secularism. The independence of her parliamentary seat gives her the institutional space to make this distinction clearly: she is under no party discipline to vote for provisions that would undermine religious minority protections, and her track record of outspoken advocacy for minority rights creates an expectation that she will exercise this independence on precisely these provisions.

CHAPTER FIFTY-NINE: THE PERSONAL TRAJECTORIES OF THE SEVEN SUBJECTS IN THE NEW PARLIAMENT

Rumeen Farhana: The Independent Voice in a Divided Chamber

Rumeen Farhana's election from Brahmanbaria-2 as an independent candidate, defeating her nearest rival, the Jamiat-e-Ulema-e-Islam Bangladesh-affiliated candidate, by a margin that was apparently comfortable despite the BNP's failure to support her officially, represents one of the most interesting individual electoral outcomes of the February 2026 election. The result demonstrates that Farhana has developed a personal political brand sufficiently distinct from party affiliation to win a first-past-the-post constituency election on her own account, a significant achievement in a political culture that has historically been dominated by party machines.

Her dual parliamentary status, simultaneously a former BNP figure with BNP political values and an independent representative with no formal party obligations, creates a unique position in the new parliament. She is not in the opposition but she is not part of the governing party's caucus. She has no formal party line to follow on any vote. She has no parliamentary committee membership to negotiate through party channels. She is, in the most literal institutional sense, free to vote as her judgment dictates on every matter that comes before the chamber. This freedom is both an opportunity and a burden: it requires her to exercise independent judgment on every parliamentary question without the analytical resources that party research structures provide, and it requires her to justify every vote on its merits rather than by reference to party position.

The oath-taking day drama has already provided the first public test of what her independence means in practice. Her departure from the oath-taking room before the Constitution Reform Council oath began was an act of genuine independence: she refused both the BNP's disciplined rejection and the opposition's principled acceptance of the dual oath. This position has attracted criticism from both directions, with BNP-aligned commentators characterizing it as inconsistent fence-sitting and opposition-aligned commentators characterizing it as a failure to commit to the reform mandate. Farhana's own public explanation, delivered in an interview with a major Bangladeshi television network in the week following the ceremony, was that her departure reflected her assessment that the legal foundation of the Implementation Order was genuinely uncertain and that she was not prepared to take an oath whose constitutional validity she could not personally certify, while at the same time remaining committed to the substantive goals of constitutional reform and to working through the parliamentary process to achieve them.

This explanation is legally coherent and personally credible. It is the explanation of a barrister who takes oath-taking with the seriousness that her professional training requires, who recognizes that an oath is not a political gesture but a legally and morally binding commitment, and who is not prepared to make such a commitment in relation to a constitutional body whose legal status is formally disputed. It is also an explanation that has a precedent: Farhana has consistently, throughout her career, been willing to take positions that are legally well-grounded even when they are politically inconvenient, a consistency that has defined her public intellectual character from the Hasina government's Digital Security Act controversies through the transition period and into the new parliament.

The specific legislative priorities that Farhana has publicly identified for her parliamentary work in the first session of the new parliament are worth noting as markers of her intended contribution. Her public statements since the election have emphasized four priority areas: the

reform of Article 70 to genuinely liberate parliamentary speech, the legislative agenda on gender political equality including the direct election reform for women's reserved seats, the specific legislative protections for religious minorities including reform of laws that have been misused for communal purposes, and the completion of an effective independence framework for the anti-corruption commission. All four of these priorities reflect consistent themes of her entire career, and all four are areas where, as an independent without party constraints, she has the capacity to advocate, introduce private member's bills, and vote according to her genuine conviction rather than party direction.

The internal conflict within Farhana's parliamentary position that deserves the most careful analytical attention is the tension between her BNP political identity and her independent institutional status in relation to the government's legislative programme. She will almost certainly agree with much of the government's legislative agenda, given her political origins and values. But her track record of outspokenness on human rights issues, her publicly expressed concerns about the BNP's historical record on minority rights and judicial independence, and her personal intellectual independence suggest that there will be specific bills or provisions on which she will vote against the government or advocate for amendments that the government's leadership would prefer not to have. The question is whether the BNP's party machine will tolerate her independent conduct, or whether the social and political pressure to align with the government will prove too strong to resist over the extended period of a five-year parliamentary term.

Bobby Hajjaj: The Nationalist in Parliament

Bobby Hajjaj's election to parliament as a BNP candidate, confirmed by Al Jazeera's election results coverage, brings the most assertively nationalist of our seven subjects into the chamber as a government backbencher. His election is significant as a demonstration that his brand of populist nationalist politics, developed through years of street-level organizing and combative media presence, translates into genuine electoral support rather than merely media visibility.

As a government backbencher, Hajjaj's parliamentary role is structurally constrained in ways that his previous extra-parliamentary career was not. The discipline of the BNP's parliamentary caucus, enforced by the existing Article 70 provisions until and unless constitutional amendment alters them, places formal limits on his capacity to deviate from the government's parliamentary positions. He cannot vote against the government on matters of confidence, and the practical political consequences of consistently voting against the government's legislative programme would likely end his political career within the BNP structure. His famous combativeness, his willingness to make inflammatory statements and challenge political orthodoxies in public media, is therefore constrained by the institutional realities of being a ruling party backbencher in a system where party discipline has historically been enforced with extraordinary rigidity.

The most interesting question about Hajjaj's parliamentary career is whether the Article 70 reform, which he has publicly supported and which is in the BNP's own manifesto, will be implemented in a form sufficiently robust to give him genuine legislative freedom, and whether, if it is, he will exercise that freedom on the foreign policy and sovereignty questions that have defined his pre-parliamentary career. His positions on the India extradition controversy, on

Bangladesh's strategic autonomy, and on the management of the China-India-US triangle, examined in Part Five, are positions that a government seeking to manage these relationships diplomatically might prefer to leave unexpressed on the parliamentary record. Whether Hajjaj as a backbencher will maintain the rhetorical assertiveness of Hajjaj as an opposition politician is a test of personal integrity that only time and the parliamentary record will settle.

His most significant potential legislative contribution lies in the domain of anti-corruption legislation, where his populist credentials and his genuine popular anger at the extortion culture that he described in his November 2024 Rangpur statement connect directly to the legislative agenda that the post-August moment has created. The anti-corruption reform agenda, including strengthening the Anti-Corruption Commission, extending asset declaration requirements to a wider range of public officials, and creating effective enforcement mechanisms for the laws against political patronage and the occupation of public resources, is precisely the area where Hajjaj's populist instincts and his genuine democratic convictions are most aligned. If the BNP government produces weak anti-corruption legislation that protects the political machine rather than dismantling it, Hajjaj is one of the few government backbenchers with both the personal credibility and the constituency support to advocate for stronger provisions from within the government ranks.

His internal conflicts within the BNP parliamentary caucus are likely to be most visible on two specific issues: the question of accountability for the post-August violence against Awami League members and supporters, on which Hajjaj's nationalist rhetoric might incline him toward a more permissive stance than the rule of law agenda requires; and the question of the upper house design, on which his stated support for political representation that extends beyond the FPTP majority might incline him toward supporting the proportional representation option that the BNP leadership has officially opposed.

Barrister Asaduzzaman Fuad: Defeat, Reflection, and Extra-Parliamentary Influence

The most surprising and consequential electoral result for our seven subjects is Barrister Asaduzzaman Fuad's crushing defeat in Barisal-3, where he lost to BNP's Zainal Abedin by a margin of nearly 21,000 votes. The scale of the defeat is notable: it was not the narrow loss of a strong candidate in a difficult constituency but a substantial reverse that suggests either that Fuad's political brand has not translated into the kind of local constituency presence that FPTP elections require, or that the AB Party's reform-oriented third-force politics simply lacks the organizational capacity to compete against the BNP machine in a straight electoral contest, or both.

The defeat has significant jurisprudential and analytical consequences that extend beyond Fuad's personal career. His absence from the new parliament means that the most institutionally focused and reform-programme sophisticated of the voices around constitutional redesign is not inside the chamber, participating in committee deliberations and floor debates, but outside it, contributing through media platforms, civil society engagement, and the specific advocacy channels of the AB Party. This is not without value: outside parliament, Fuad is free from the constraints that party discipline imposes on parliamentary members, and his intellectual contributions to the constitutional reform debate are potentially more rigorous and more candid

than they would be if he were managing the political calculations of a backbencher in a ruling coalition. But he lacks the institutional access, the committee memberships, and the direct vote that parliamentary presence provides.

The AB Party's electoral performance as a whole was disappointing, reflecting the structural difficulties that third-force parties face in FPTP electoral systems. The party had been a consistent advocate for proportional representation as an alternative to FPTP, and the irony of the AB Party's electoral failure in the very system it had criticized is not lost on political commentators. Fuad has acknowledged this irony in post-election interviews, noting that the AB Party's support for PR reflects precisely the recognition that FPTP systematically disadvantages parties like the AB Party that draw significant support across many constituencies without achieving the concentrated majorities required to win seats under the first-past-the-post system.

Fuad's post-election public interventions have been focused on two specific areas where his expertise and the post-election political situation converge. The first is the constitutional legitimacy question surrounding the dual oath crisis, where his analysis, discussed in Chapter Fifty-Six, has been among the most carefully reasoned contributions to a debate that has sometimes been conducted more as political theatre than as constitutional analysis. The second is the anti-corruption legislative agenda, where his reform charter's specific provisions on institutional accountability create a detailed benchmark for evaluating the government's actual legislative output.

His most significant contribution to the constitutional reform debate in the immediate post-election period has been his advocacy for what he calls a "legislative roadmap" for the July National Charter's implementation, a detailed timeline that specifies which constitutional amendments will be introduced in which sequence, which legislative reforms can be accomplished through ordinary legislation rather than constitutional amendment, and what the accountability mechanisms will be for tracking the government's progress. The proposal reflects his institutional orientation and his recognition that the BNP's pledge to implement the charter "in line with the people's mandate" is sufficiently vague to encompass a wide range of outcomes, from full implementation to selective adoption of the provisions most convenient to the ruling party while quietly abandoning the rest.

Andaleeve Rahman: The Constitutional Craftsman

Andaleeve Rahman's parliamentary position, like Fuad's, requires confirmation from sources not fully available at the time of this chapter's composition. What is clear from the available record is that Rahman's engagement with the constitutional reform process during the transition period has made him one of the most significant intellectual contributors to the specific design of the proposed reforms. His multilateralist institutionalism and his deep engagement with comparative constitutional design have positioned him as a resource that the new parliament's constitutional reform deliberations will draw upon, whether or not he holds a formal parliamentary seat.

His specific contribution to the July National Charter's design, particularly his analysis of the bicameral parliament proposal and the caretaker mechanism, has been documented in academic publications and civil society reports. His advocacy for the PR-based upper house reflects his

comparative constitutional analysis: the existing literature on bicameralism's effectiveness as a mechanism for protecting minority interests and moderating executive overreach strongly supports the conclusion that a weakly bicameral system dominated by the same party as the lower house provides fewer of the democratic goods that bicameralism is designed to deliver than a genuinely independent upper house with different representational principles. Rahman's deployment of this comparative evidence in the public debate has provided intellectual credibility to the opposition's position on the upper house question and has complicated the BNP's ability to claim that its preferred seat-based upper house is consistent with the reform mandate.

His engagement with the legislative process on the caretaker mechanism question has been particularly valuable because of his historical analysis of the original Thirteenth Amendment's design and its subsequent failure. His three design principles for the new caretaker mechanism, definitional precision, temporal limitation, and accountability, provide a concrete framework for legislative drafting that is more operationally specific than the general commitment to caretaker government neutrality that politicians of all parties have proclaimed. The challenge will be persuading the BNP government, which will be the primary author of the caretaker legislation, to adopt a design that effectively constrains future BNP governments as much as it constrains any potential Awami League resurgence.

Mohammad Shishir Manir: Judicial Independence and the New Legal Architecture

Mohammad Shishir Manir's parliamentary situation, and the specific contributions he is making to the post-election legal debate, reflect his consistent focus on the institutional dimensions of legal reform rather than the partisan political dimensions. His most significant public engagement in the immediate post-election period has been with the question of whether the judicial independence reforms accomplished through interim government ordinances will survive the transition to elected government in legally robust form.

The specific concern he has raised, in public statements and media interviews, is that several of the most important judicial independence reforms, including the Supreme Court Secretariat Ordinance and the specific provisions of the Judges Appointment Ordinance, were enacted by the interim government as executive ordinances rather than as Acts of Parliament, and that their legal durability therefore depends on the new parliament's willingness to ratify them through legislative action. Under Bangladesh's constitutional framework, ordinances issued by the President during a parliamentary recess require parliamentary ratification within thirty days of the parliament's first sitting in order to remain in force. The new parliament's first sitting in February 2026 therefore starts a thirty-day clock on the judicial independence ordinances, and Manir has been vocal in demanding that the new government treat their ratification as a first-order legislative priority.

His argument for prioritizing judicial independence legislation draws on his broader institutional sovereigntism: the judiciary's independence from political pressure is not merely a formal requirement of constitutional law but the structural foundation of every other rule of law guarantee. An independent judiciary that applies the law impartially is the mechanism through which all other constitutional rights are enforced. A judiciary that is susceptible to political

pressure from the executive, whether through the appointment process, the promotion and transfer system, or informal influence on judicial decision-making, is a judiciary that cannot be relied upon to enforce the constitutional provisions that the post-August reform agenda is designed to establish. The priority of judicial independence legislation is therefore not simply a sectoral advocacy position: it is a recognition that without judicial independence, the entire constitutional reform agenda rests on a foundation whose integrity cannot be assumed.

Manir's specific proposals for the legislative strengthening of judicial independence go beyond the ratification of existing ordinances. He has advocated for the enactment of a comprehensive Judicial Independence Act that would codify in ordinary legislation, with constitutional amendment as the goal for the most fundamental provisions, the specific institutional arrangements required for genuine independence: a judicial service commission with majority representation from the judiciary itself in both its full and appellate division configurations, an independent budget process for the Supreme Court that reduces the judiciary's financial dependence on executive allocation decisions, a transparent merit-based promotion process for judges of the subordinate courts, and a strengthened procedure for the removal of judges that protects against politically motivated removal while providing an effective mechanism for addressing genuine judicial misconduct.

Nijhum Majumdar: Civil Society Advocacy and the Parliament's Accountability

Nijhum Majumdar does not hold a parliamentary seat and was not a candidate in the February 2026 election. Her engagement with the new parliament's legislative agenda is therefore entirely through the channels of civil society advocacy, media commentary, and the international human rights networks through which she has long operated. This position outside the formal institutional structures of the new government and the new parliament gives her a specific kind of analytical freedom: she is not constrained by party discipline, parliamentary procedural rules, or the considerations of institutional positioning that affect the parliamentarians among our seven subjects.

Her most significant post-election contribution to the legislative debate has been her detailed analysis of the specific legislative measures necessary to give constitutional effect to the human rights dimensions of the July National Charter. The charter's proposals for expanded fundamental rights and enhanced fundamental rights enforcement mechanisms are, she has argued in published commentaries, only as meaningful as the specific legislative framework built to implement them. The abstract constitutional guarantee of an expanded right, without the enabling legislation that specifies its content, the institutions responsible for its enforcement, the remedies available for its violation, and the funding to make those remedies accessible, is a political statement rather than a legal commitment.

Her specific legislative agenda for the new parliament includes three priority items that she has advocated consistently. The first is a comprehensive anti-discrimination law that covers not only the grounds of discrimination currently addressed in Bangladesh's legal framework but also the intersectional grounds of discrimination, including the compound vulnerability of women from religious minority communities, that the existing framework fails to address. The second is the enactment of a whistleblower protection law that would create a legal framework for the

reporting of corruption and human rights violations without exposing the reporter to legal and personal consequences, a reform specifically endorsed in the NCP's manifesto. The third is the reform of the existing legal framework on freedom of expression and assembly to bring it into conformity with ICCPR standards, including the repeal or fundamental amendment of the provisions of the Cyber Security Act of 2023 that replicated the most problematic elements of the Digital Security Act that it ostensibly replaced.

Her internal conflicts in the post-election period reflect a tension between her genuine optimism about the constitutional reform agenda and her well-founded skepticism about whether the BNP government will implement that agenda in a form sufficiently robust to transform the structural conditions that produced the Hasina government's human rights violations. Her optimism is based on the specific political dynamics of the new parliament: the BNP's supermajority depends on maintaining the legitimacy of the July 2024 mandate, and that mandate is most credibly understood as a demand for genuine institutional transformation rather than merely partisan alternation. Her skepticism is based on the BNP's own history: in its previous governments, the BNP was no less inclined to instrumentalize state power for partisan advantage than the Awami League it has replaced, and there is no structural reason to expect that the accumulation of power through a supermajority will be self-restraining.

Barrister Suman: The Accountability Advocate in the New Legal Landscape

Barrister Suman's role in the new parliament's legislative agenda is not that of a parliamentarian but that of a criminal defence practitioner and public legal commentator whose work in the accountability cases arising from the August 2024 killings connects directly to the legislative choices that the new parliament must make. His specific position on the legal architecture of the accountability process, examined in Part Five, remains the framework through which he engages with the legislative agenda.

The most pressing legislative question in his domain is the design and legal status of the special tribunals established for the prosecution of cases arising from the uprising. The interim government established these tribunals through executive action, and their legal framework requires parliamentary ratification and, in some respects, constitutional amendment to ensure that they can conduct proceedings that will withstand international legal scrutiny and that will produce findings of guilt that are not vulnerable to challenge on grounds of procedural irregularity.

Suman has been particularly focused on the evidentiary framework for the accountability cases, arguing in public commentary that the special tribunals require a specific legislative framework for the admissibility of digital evidence, electronic communications, and social media records that are central to establishing the command responsibility chain for the ordering of lethal force against protesters. The existing Evidence Act of Bangladesh, drafted in the colonial era with amendments that have not kept pace with the digital revolution, is inadequate for the evidentiary demands of modern accountability cases. The enactment of a Digital Evidence Act that creates clear admissibility standards for electronic evidence, that specifies the conditions under which digital records obtained by investigative authorities are admissible, and that protects the integrity

of digital evidence from tampering or fabrication, is a legislative priority that connects the accountability agenda directly to the technological realities of modern criminal prosecution.

His engagement with the command responsibility question continues to shape his public advocacy in the new parliamentary period. The specific legislative question is whether the special tribunal legislation should explicitly incorporate the command responsibility doctrine as established in international criminal law, thereby enabling the prosecution of senior officials on the basis of their failure to prevent killings that their subordinates carried out, or whether it should limit prosecution to those who directly ordered specific acts of violence. Suman's position, as a defence barrister who has represented individuals in these proceedings, is nuanced: he supports the incorporation of the command responsibility doctrine as a matter of legal principle and international obligation, but he insists that its application must be governed by the same precise evidentiary standards that international criminal courts apply, rather than by a looser domestic standard that could be used to extend liability to officials who had no meaningful control over the conduct of subordinates.

CHAPTER SIXTY: THE SUBSTANTIVE LEGISLATIVE AGENDA

Anti-Corruption Architecture: From Rhetoric to Law

The anti-corruption legislative agenda is simultaneously the most politically popular and the most institutionally demanding dimension of the new parliament's work. Every political party in Bangladesh has proclaimed its commitment to fighting corruption, and the specific anti-corruption failures of the Hasina governments, ranging from the massive financial sector scandals associated with the collapse of the Islamic cooperative societies, to the systemic extortion culture documented in Hajjaj's Rangpur statement, to the use of state procurement processes as mechanisms for transferring public resources to political loyalists, have created a popular demand for specific and measurable anti-corruption reforms rather than simply rhetorical commitments.

The legal architecture of anti-corruption action in Bangladesh involves multiple layers: the constitutional provisions on accountability and transparency, the statutory framework of the Anti-Corruption Commission Act of 2004 and its amendments, the money laundering legislation, the asset declaration requirements for public officials, the public procurement framework, and the specific accountability mechanisms for the financial sector and public enterprises. Each of these layers has been critiqued by reformers and has been identified as requiring strengthening, and the new parliament has the opportunity to address all of them within a coherent legislative programme.

The specific reforms most strongly advocated by our seven subjects across the range of their public positions can be grouped into three categories. The first category is institutional independence: the Anti-Corruption Commission's independence from political direction, which has been severely compromised under successive governments that have used the ACC as an instrument for pursuing political opponents while protecting political allies, requires

strengthening through a combination of appointment reform, enhanced civil service status for ACC officials, independent prosecutorial authority without the requirement of government sanction for specific cases, and judicial oversight of the ACC's investigative decisions. Barrister Asaduzzaman Fuad's reform charter provides the most detailed framework for this institutional independence agenda.

The second category is asset transparency: the comprehensive declaration and public disclosure of assets by all categories of public officials, including Members of Parliament, judges, senior civil servants, and military officers, using a standardized format that enables meaningful scrutiny rather than the formal compliance with disclosure requirements that produces declarations too complex to be analysed and too incomplete to be verified. Nijhum Majumdar's advocacy has been particularly focused on extending asset declaration requirements to the spouses and dependent children of public officials, on the grounds that the transfer of illicit wealth to family members is one of the most common methods of evading individual accountability.

The third category is international asset recovery: the legislative and procedural framework for recovering assets that have been illegally transferred overseas, which requires both domestic legislation on asset forfeiture and international cooperation with the jurisdictions where illicit assets are held. The scale of asset flight during the Hasina years, documented in reports by the Financial Intelligence Unit and multiple international anti-money laundering bodies, makes international asset recovery a major economic as well as anti-corruption priority. Andaleeve Rahman's multilateralist framework, applied to the specific domain of anti-corruption, argues for systematic engagement with the UN Convention Against Corruption's asset recovery provisions and with the bilateral asset sharing agreements that Bangladesh can negotiate with the jurisdictions holding the largest amounts of illicitly transferred Bangladeshi assets.

Freedom of Expression and the Cybersecurity Framework

The legislative reform of Bangladesh's framework for regulating speech, both offline and online, is one of the most urgent and most philosophically charged dimensions of the new parliament's work. The history of the Digital Security Act of 2018 and its successor, the Cyber Security Act of 2023, examined in depth in Part Three, demonstrates that Bangladesh has a persistent structural problem with legislative instruments that purport to address legitimate security and defamation concerns while in practice being deployed systematically to suppress political opposition, critical journalism, and online dissent.

The interim government took initial steps toward reform of the cybersecurity legislation, but the fundamental restructuring required to bring Bangladesh's online speech regulation into conformity with ICCPR standards has not been accomplished. The new parliament has the opportunity and the obligation to complete this reform, and the specific legislative design of the replacement framework is a question on which our seven subjects have collectively provided more public analysis than on almost any other legislative issue.

The key jurisprudential question is how to design a legal framework for regulating harmful online speech that is genuinely protective of legitimate speech interests while providing effective remedies for genuine harms including defamation, harassment, and incitement to violence. The

answer from international human rights law is clear in principle, though demanding in legislative detail: restrictions on speech must be prescribed by law with sufficient precision to enable citizens to regulate their conduct, must pursue a legitimate aim recognized in the ICCPR, and must be necessary in a democratic society, meaning proportionate to the harm they address and the least restrictive means of achieving their aim. The existing Cyber Security Act fails each of these requirements: its definitions of prohibited speech are imprecise to the point of enabling arbitrary enforcement, its application has targeted legitimate political and journalistic expression, and its penalties are grossly disproportionate to the harms addressed.

Rumeen Farhana's specific legislative contribution to the speech regulation debate has been her advocacy for a clear separation between the criminal and civil law frameworks for harmful speech. Her proposal, detailed in a policy paper published by the human rights civil society organization she co-founded, is that criminal penalties for speech should be limited to a narrow category of genuinely serious harms including direct incitement to violence against identifiable groups, while the far broader category of harmful speech including defamation and privacy violations should be addressed through a civil law framework that provides effective remedies for victims without exposing speakers to the risk of imprisonment. This approach is consistent with the direction of international human rights law on speech regulation and with the practice of most established democracies, which have decriminalized defamation and rely primarily on civil tort law for managing interpersonal speech disputes.

Manir's judicial independence perspective adds a further dimension to the speech regulation debate: the independence and impartiality of the courts that adjudicate speech cases is as important as the specific legal standards they apply. A speech regulation framework that provides excellent substantive protections for free expression will fail to protect that expression if the courts applying it are susceptible to political pressure to rule against critics of the government. The speech regulation reform and the judicial independence reform are therefore not parallel but intersecting legislative agendas, and the effectiveness of each depends on the adequate implementation of the other.

The Anti-Discrimination Framework and Minority Rights Legislation

The legislative agenda on anti-discrimination and minority rights is the area where the post-August constitutional moment's potential is most clearly at risk of being squandered by political inaction. Bangladesh's legal framework on discrimination lacks a comprehensive anti-discrimination law of the kind found in most established democracies, relying instead on a patchwork of constitutional provisions, sector-specific regulations, and the limited protections of the Penal Code. The consequences of this legislative gap for religious minorities, ethnic minorities, persons with disabilities, and members of the LGBTQ community have been documented extensively in the reports examined in Part Four.

The enactment of a comprehensive anti-discrimination law is one of the specific legislative commitments in the July National Charter, and the NCP's manifesto includes a specific recognition of the right to freedom from discrimination as a fundamental rights priority. The legislative challenge is to design a law that is effective in addressing the specific forms of discrimination that affect the most vulnerable communities, including the institutional and

structural forms of discrimination that operate through facially neutral policies rather than explicit exclusions, while being politically sustainable in a context where both the BNP's Islamist allied groups and the new Jamaat-led opposition have significant constituencies that resist certain categories of anti-discrimination protection.

The intersectionality dimension of anti-discrimination legislation is particularly important in the Bangladeshi context. The compound vulnerability of Hindu women, Adivasi women, and Rohingya women, who face discrimination on multiple grounds simultaneously, cannot be adequately addressed by a legal framework that treats each ground of discrimination separately. Kimberle Crenshaw's intersectionality framework, applied to the design of Bangladesh's anti-discrimination legislation, suggests that the law must explicitly recognize compound discrimination as a category of harm that is distinct from and more severe than single-ground discrimination, and must create specific remedies and enforcement mechanisms addressed to the specific patterns of intersectional vulnerability that characterize the Bangladeshi context.

Nijhum Majumdar's advocacy for the comprehensive anti-discrimination law has consistently emphasized this intersectionality dimension, arguing that a law that merely prohibits discrimination on each of the protected grounds separately will fail to address the lived experience of the most vulnerable communities. Her engagement with the specific legislative drafting challenge has produced a detailed policy paper that identifies the specific provisions, including the definition of discrimination, the prohibited grounds, the burden of proof, the categories of permissible differential treatment, and the enforcement and remedy mechanisms, that would constitute an effective comprehensive anti-discrimination law for Bangladesh.

The political challenge of enacting this legislation under the current parliamentary configuration is significant. The BNP's coalition with conservative Islamic groups, the large Jamaat-e-Islami opposition, and the political sensitivity of any legislative provisions that could be characterized as extending protections to communities that religious conservatives regard as morally problematic create structural resistance to a comprehensive anti-discrimination law. Whether the BNP government will choose to confront this resistance in the interest of genuine constitutional equality, or whether it will produce a deliberately limited law that avoids the most politically sensitive provisions, is one of the clearest tests of the government's commitment to the substantive values of the post-August transformation rather than merely its rhetorical commitments.

Labour Rights, Worker Protection, and the Garment Sector

The garment sector, which employs approximately four million workers and generates approximately 83 percent of Bangladesh's export earnings, is both the economic foundation of Bangladesh's development trajectory and one of the most important testing grounds for the new parliament's commitment to genuine legal reform. The sector's workers, predominantly women, are among the most economically and legally vulnerable members of Bangladeshi society, subject to below-subsistence wages, unsafe working conditions, suppressed union organizing rights, and specific patterns of gender-based violence in the workplace that Bangladesh's existing labour law framework has consistently failed to address adequately.

The legislative agenda on labour rights engages directly with Bangladesh's international trade relationships and its international legal obligations. The European Union's GSP plus scheme, which provides Bangladesh with preferential access to the EU market, includes conditions relating to labour rights that Bangladesh is obligated to meet, and the annual GSP monitoring reports have consistently identified gaps in Bangladesh's labour law framework, including insufficient protection for trade union rights, inadequate enforcement of occupational health and safety standards, and persistent failure to address gender-based violence in the workplace. The new government's approach to closing these gaps will affect not only the welfare of garment workers but also Bangladesh's continued access to the preferential trade arrangements that have been central to its export-led economic growth.

Bobby Hajjaj's populist politics create an interesting position on the labour rights question. His political rhetoric has consistently emphasized the economic hardship of ordinary Bangladeshis, including garment workers, and his stated commitment to economic dignity aligns with strengthened labour protections. But his nationalist economic framework, which is suspicious of international conditionality requirements and emphasizes Bangladesh's right to determine its own economic and labour policies, creates a tension with the international trade law context within which Bangladesh's labour rights reforms must be understood. Resolving this tension requires acknowledging that Bangladesh's international trade relationships, and the labour rights conditions they impose, are not simply external impositions but legally binding commitments that Bangladesh has made and that reflect genuine obligations to its own workers rather than merely donor country preferences.

The specific legislative priorities in the labour domain include reform of the Bangladesh Labour Act of 2006 and its 2013 amendments to strengthen union organizing rights, enactment of specific legislation on gender-based violence in the workplace with effective enforcement mechanisms and remedies, reform of the labour court system to reduce the excessive delays that currently make formal legal processes inaccessible for individual workers with grievances, and strengthening of the Department of Inspection for Factories and Establishments to ensure effective occupational health and safety compliance.

Digital Economy, AI Governance, and the New Technological Legal Architecture

The BNP manifesto's ambitious commitment to building a digital economy that contributes 5 to 10 percent of GDP by 2034, creating 200,000 jobs in cybersecurity, business process outsourcing, AI data, semiconductors, and Industry 4.0, and expanding Bangladesh's participation in the global technology economy, creates a legislative agenda around AI governance, data protection, platform regulation, and technology sector legal frameworks that is both urgent and genuinely novel. Bangladesh has no comprehensive data protection legislation, no AI governance framework, and a technology regulatory structure that was designed for a previous technological era. The new parliament has the opportunity to create a legal architecture for the digital economy that is fit for the technological future rather than merely reactive to the technological present.

The comparative international experience in digital regulation is rapidly evolving. The European Union's General Data Protection Regulation, enacted in 2018, and its AI Act, which entered into

force in 2024, represent the most comprehensive attempt by any jurisdiction to create a comprehensive legal framework for the digital economy. India's Digital Personal Data Protection Act of 2023 provides a closer comparative model given its South Asian context and the experience of a common legal heritage. The specific legislative design choices that Bangladesh makes in enacting data protection and AI governance legislation will determine both the attractiveness of Bangladesh as a destination for digital economy investment and the protection available to Bangladeshi citizens from the harms that unregulated digital technology can produce.

Barrister Asaduzzaman Fuad's reform charter includes specific provisions on the regulation of the digital economy, drawing on his engagement with international models and his recognition that the legal infrastructure of the digital economy is as important as the physical infrastructure of roads and ports for Bangladesh's economic development. His advocacy for a data protection law modelled on the GDPR's principles of data minimization, purpose limitation, and individual rights over personal data, while adapted to Bangladesh's specific economic and institutional context, provides a useful starting framework for the legislative design process. The challenge will be ensuring that data protection legislation actually empowers individuals rather than merely creating compliance obligations for businesses, a challenge that requires genuine civil society involvement in the legislative drafting process rather than purely industry-driven input.

Environmental Law and Climate Adaptation

The legislative agenda on environmental law and climate adaptation is the area where the gap between Bangladesh's acute vulnerability and its legal framework is perhaps the most severe and the most consequential for the largest number of citizens. Bangladesh has a basic legal framework for environmental protection, including the Bangladesh Environment Conservation Act of 1995 and its amendments, but this framework has been enforced with inconsistency driven by political economy considerations, lacks the specific provisions on climate change adaptation that Bangladesh's situation requires, and does not yet incorporate the loss and damage framework that international climate negotiations have established as a mechanism for compensating the most vulnerable states for climate harms.

The new parliament's legislative agenda on environmental law has three principal components: strengthening domestic enforcement of existing environmental standards, enacting specific legislation on climate change adaptation that creates legal obligations and institutional mechanisms for the most vulnerable communities, and developing the domestic legal architecture for claiming loss and damage compensation from the international community. Andaleeve Rahman's multilateralist approach is particularly valuable for the third component, as building a credible domestic legal framework for loss and damage claims requires aligning Bangladesh's legal institutions with the developing international framework for such claims.

The constitutional dimension of environmental law reform is also significant. The July National Charter's proposals include recognition of the right to a clean and healthy environment as a fundamental right, a change that would constitutionalize environmental protection and enable citizens and civil society organizations to bring constitutional challenges against environmental violations. The constitutional environmental right, if enacted with sufficient precision and with

effective enforcement mechanisms, could transform the relationship between Bangladesh's citizens and the state's environmental obligations in ways that ordinary legislation alone cannot achieve.

CHAPTER SIXTY-ONE: THE ACCOUNTABILITY LEGISLATION

Special Tribunal Framework and the International Crimes Tribunal's Expanded Mandate

One of the most significant and internationally consequential legislative developments of the post-August period was the International Crimes Tribunal's November 17, 2025 ruling that Sheikh Hasina and her co-defendants were guilty of war crimes in connection with the killings during the July-August 2024 uprising, and its imposition of the death sentence on Hasina and former home minister Asaduzzaman Khan Kamal. The ruling, which was delivered by the tribunal established under the International Crimes (Tribunals) Act of 1973, is one of the most consequential judicial decisions in Bangladesh's post-independence history and creates a specific legislative context that the new parliament must address.

The International Crimes Tribunal, originally established to prosecute those responsible for crimes against humanity and genocide committed during the Liberation War of 1971, was reactivated and its mandate expanded to address the crimes of the 2024 uprising by the interim government. The use of the same tribunal that prosecuted collaborators of the 1971 genocide to prosecute the leaders of the government that oversaw the uprising killings is historically ironic in the extreme: the political tradition most closely associated with the 1971 liberation narrative is now being judged under a legal framework originally created to enforce accountability for crimes committed against that very tradition. The irony does not diminish the legal seriousness of the proceedings, but it does create specific political complexities for the BNP government's approach to the tribunal's judgments and the legislation that underpins them.

Barrister Suman's public commentary on the ICT's November 2025 ruling has been the most technically careful of our seven subjects' responses. He has acknowledged the legal significance of the ruling while raising specific procedural and evidentiary concerns about aspects of the proceedings, consistent with his professional role as a criminal defence practitioner with a commitment to fair trial standards regardless of the political identity of the defendants. His specific concerns include the question of whether the right to cross-examine witnesses was adequately protected, whether the evidentiary standards for establishing command responsibility were applied with sufficient rigour, and whether the defence had adequate access to exculpatory evidence in the prosecution's possession. These are professional concerns rather than political ones, and their expression reflects a commitment to procedural fairness that is independent of any view about the defendants' guilt.

The legislative question that the ICT's ruling generates is whether the tribunal's proceedings provide an adequate domestic accountability process under the complementarity principle that would preclude ICC intervention, or whether the procedural concerns raised by Suman and others are sufficiently serious to call into question the proceedings' adequacy as genuine

accountability. The new parliament's responsibility is to enact legislation that strengthens the ICT's procedural framework to address these concerns while preserving the substantive accountability function that the tribunal serves, rather than either abandoning the proceedings on grounds of procedural inadequacy or defending every aspect of the existing proceedings from legitimate criticism.

The death sentence on Hasina creates a specific political and diplomatic context. The death penalty remains part of Bangladesh's criminal law framework, but its application in the context of political accountability proceedings significantly complicates the diplomatic management of the India relationship and the international legitimacy of the accountability process. Many international human rights organizations, including Amnesty International and Human Rights Watch, oppose the death penalty in all circumstances, and their criticism of a death sentence against Hasina is guaranteed to generate international attention that the new government will need to manage. Whether the new government will seek to commute the sentence, allow appeal processes to run their course, or actively pursue its execution is a decision with profound implications for Bangladesh's international legal standing and its bilateral relationship with India, which has every incentive to press for Hasina's permanent residency and protection.

The Death of Khaleda Zia and the Succession Question

The death of Khaleda Zia on December 30, 2025, after a prolonged illness that had been a consistent presence in Bangladeshi political news for years, changed the landscape of BNP politics in ways that affect the legislative context of the new parliament. Khaleda Zia's death removed from the scene the most powerful remaining link between the BNP's political identity and its founding Ziaur Rahman era heritage. With Khaleda gone and Tarique Rahman now serving as Prime Minister rather than as a party chairman in exile, the BNP faces a question of institutional identity that has legislative implications: what does "Bangladesh before all" mean without the founding family's senior matriarch to embody its historical meaning?

The legislative consequences of Khaleda's death are most visible in the specific provision of the BNP manifesto to list the victims of both the 1971 Bangladesh genocide and the July massacre as a single state-acknowledged historical record. The commitment to list the victims of the 1971 genocide alongside the victims of the 2024 uprising is a significant political and historical statement that has implications for how Bangladesh's official national narrative is constructed and legislated. The 1971 genocide victims' families and the July 2024 victims' families become, under this formulation, parallel constituencies of state-acknowledged suffering whose legal claims to recognition and redress are similarly structured. Whether this parallel structure represents a genuine integration of historical narratives or a strategic political reframing that dilutes the specifically Awami League-centred version of 1971 memory is a question that the specific legislative content of the victims' listing legislation will answer.

CHAPTER SIXTY-TWO: THEORETICAL AND PHILOSOPHICAL ANALYSIS OF THE LEGISLATIVE MOMENT

The Problem of Constitutional Legitimacy in a Post-Revolutionary Context

The legislative agenda of the new parliament raises, in concentrated and urgent form, the fundamental question of constitutional legitimacy in a post-revolutionary context that has been one of the most debated topics in contemporary constitutional theory. The question is: what gives a constitutional order its legitimacy, and by what standard should the specific institutional design choices embedded in that order be evaluated?

The three principal theoretical traditions that address this question have already been introduced in earlier parts of this textbook, but their application to the specific legislative moment of the new Bangladeshi parliament deserves dedicated analysis. The social contract tradition, running from Locke through Rousseau to Rawls, locates constitutional legitimacy in the rational consent of those governed, either in an original contracting moment or in an ongoing process of democratic participation. The democratic constitutionalism tradition, represented by Dworkin's rights as trumps and Habermas's discourse ethics, locates constitutional legitimacy in the procedural fairness of constitutional deliberation and in the substantive protection of individual rights that constitutional provisions must guarantee to be genuinely legitimate. The republican tradition, running from Machiavelli and the civic humanists through Madison and Arendt to contemporary republican theorists like Philip Pettit, locates constitutional legitimacy in the structural prevention of domination, the arrangement of political institutions so that no individual or group can exercise arbitrary power over others.

Each of these traditions generates specific insights about the Bangladeshi legislative moment. The social contract tradition asks whether the constitutional changes enacted by the new parliament are genuinely consented to by the population, and the referendum result provides the most direct evidence available: 60.26 percent of voters endorsed the July National Charter, a result that represents a majority consent to the reform programme that is difficult to dismiss regardless of procedural uncertainties about the referendum's constitutional basis. The democratic constitutionalism tradition asks whether the legislative process through which the constitutional amendments are enacted is fair and inclusive, and raises immediate concerns about the potential for the BNP's supermajority to enact constitutional changes without genuine opposition engagement, about the specific design of the upper house that could either entrench or moderate majority power, and about the adequacy of the fundamental rights protections that constitutional amendments purport to establish. The republican tradition asks whether the constitutional changes under consideration reduce or increase the risk of domination, examining specifically whether the proposed constraints on executive power, including term limits, enhanced presidential powers, judicial independence, and the caretaker mechanism, are designed with sufficient institutional robustness to prevent future governments from reproducing the domination that characterized the Hasina era.

Philip Pettit's concept of freedom as non-domination, developed in "Republicanism: A Theory of Freedom and Government" (1997) and extended in his subsequent work, provides the most analytically useful framework for evaluating the specific institutional choices of the new parliament's legislative agenda. For Pettit, freedom is not merely the absence of interference, as in the liberal tradition, but the absence of subjection to the arbitrary will of another, meaning the condition in which one's conduct cannot be controlled by the discretionary choice of any external

agent. Domination, the condition in which an agent is subject to the arbitrary power of another, can occur even without actual interference: the mere capacity of the dominant agent to interfere arbitrarily is sufficient to constitute domination in Pettit's account.

Applied to Bangladesh's constitutional design questions, Pettit's framework suggests that the adequacy of the proposed reforms must be evaluated not merely by reference to whether they constrain the specific abuses documented under the Hasina governments, but by whether they create a constitutional structure in which future governments, including future BNP governments, lack the capacity to exercise arbitrary power over citizens. The term limit on the prime minister addresses the temporal dimension of domination by preventing the indefinite accumulation of executive power in a single person. The caretaker mechanism addresses the electoral dimension of domination by preventing the ruling party from using state machinery to ensure its own electoral perpetuation. The judicial independence provisions address the legal dimension of domination by creating a judiciary that can independently enforce constitutional constraints on executive power. The Article 70 reform addresses the parliamentary dimension of domination by creating a legislature that is not simply a transmission mechanism for executive will. The upper house creates a second legislative check on the majority's capacity for arbitrary constitutional change.

Each of these reforms is, in principle, a meaningful reduction in the capacity for domination that characterizes Bangladesh's existing constitutional order. But each is also only as effective as the specific institutional design choices embedded in its legislative implementation. A term limit with no effective enforcement mechanism, a caretaker mechanism with a vague definition of "neutral" that the ruling party can manipulate, a judicial independence provision with a judicial service commission dominated by government appointees, an Article 70 reform that preserves party discipline on money bills and confidence votes in ways that create de facto party control of all significant votes, and an upper house that replicates the majority party's dominance are all formally present reforms that fail to achieve the substantive republican goal of reducing domination. The legislative work of the new parliament must therefore be evaluated not at the level of formal commitment but at the level of institutional detail.

The Social Contract Problem: Who was Parties to the July National Charter?

A specific and important theoretical challenge to the legitimacy of the July National Charter as a foundational document for the new parliament's constitutional reform agenda is the question of who was parties to the social contract it represents. The charter was produced during the interim government period of August 2024 to February 2026, by a process that involved the reform commissions established by the Yunus administration, cross-party negotiations among the political parties represented in the emerging post-August political landscape, and ultimately a referendum that presented voters with a binary choice of accepting or rejecting the charter's proposals as a package.

The Awami League was not a participant in this process in any meaningful sense. Its political organization was banned before the election, its leaders were either arrested, in exile, or facing criminal proceedings, and its supporters were either intimidated out of political participation or explicitly excluded from the political process by the terms of the AL's formal exclusion from the

election. The referendum result therefore reflects the preferences of a population from which one of Bangladesh's two historically dominant political forces was effectively absent as an organized voice.

This exclusion raises a profound social contract question: can a constitutional settlement be genuinely legitimate if it excludes, through processes of legal and political force, one of the major constituencies in the polity? The question is not an academic one. The approximately 25 to 30 percent of Bangladeshis who have historically identified with the Awami League tradition, and who represent some of the most educationally and economically developed sections of Bangladeshi society, are not bound by a constitutional settlement that was reached without their meaningful participation. Their future political engagement with the constitutional order, including their willingness to accept the new constitutional framework as legitimate rather than as an imposition, will be a significant determinant of the new constitution's durability.

Andaleeve Rahman's multilateralist institutionalism is specifically relevant to this social contract problem. His argument for inclusive constitutional design processes, drawing on the comparative experience of South Africa's negotiated constitution-making process and the Colombian constitutional assembly of 1991, both of which involved previously excluded groups in the constitution-making process, suggests that the legitimacy deficit created by the Awami League's exclusion from the July National Charter process can only be addressed through subsequent political inclusion rather than through constitutional enforcement. The new parliament's approach to political reconciliation with AL supporters, as distinct from the criminal accountability of AL leaders for specific crimes, is therefore not merely a matter of political generosity but a constitutional legitimacy question with implications for the durability of the post-August settlement.

Barrister Fuad has addressed this problem directly in his post-election public interventions, arguing that a sustainable constitutional settlement requires what he calls "inclusionary legitimation," a process through which the constitutional framework is ratified not merely by the political forces that produced it but by a gradually widening circle of political actors who come to accept its legitimacy through participation in its institutions. His proposal is not for the immediate readmission of the Awami League to political competition, which he recognizes as politically impossible in the current moment given the accountability demands for the August 2024 killings, but for a deliberate design of the new constitutional institutions to make them genuinely representative of and accountable to all sections of the population, including those who supported the previous government. This is a sophisticated constitutional design argument rather than a political endorsement of the Awami League, and it reflects the jurisprudential maturity that his intellectual career has developed.

Habermasian Discourse Ethics and the Legislative Process

Jürgen Habermas's discourse ethics, developed in his two-volume "Theory of Communicative Action" (1984-1987) and "Between Facts and Norms" (1992), provides a procedural theory of democratic legitimacy that is directly relevant to evaluating the quality of the new parliament's legislative process. For Habermas, legal norms are legitimate when they could receive the assent of all those potentially affected by them if they participated in a genuinely free and equal process

of deliberative communication. The standard is not actual consent, which is never achievable in complex societies, but hypothetical rational consent under ideal discursive conditions.

The application of this standard to the Bangladeshi legislative process identifies specific procedural deficiencies that threaten the legitimacy of the reform agenda. The most significant is the absence of meaningful opposition participation in the constitutional reform process. The BNP's refusal to participate in the Constitutional Reform Council, the opposition's limited capacity to participate meaningfully in constitutional amendment deliberations given its 77-seat minority against the BNP's 212-seat majority, and the exclusion of civil society organizations from formal roles in the parliamentary deliberation process all represent departures from the conditions of genuinely free and equal discursive participation that Habermasian legitimacy requires.

The procedural recommendations that Habermasian discourse ethics generates for improving the legislative process include: mandatory public consultation periods before significant constitutional amendments are debated in parliament, requiring the government to publish draft amendment bills for a specified period and to hold public hearings in which civil society organizations, legal scholars, affected communities, and individual citizens can submit formal responses that must be considered in the drafting process; genuine opposition engagement in amendment deliberations through enhanced parliamentary committee processes with balanced membership and real investigative authority rather than the formal committee structures that have historically been dominated by the ruling party; and independent constitutional review of proposed amendments before their enactment, either by a constitutional court or by an independent advisory body with recognized constitutional expertise.

Mohammad Shishir Manir's advocacy for enhanced public consultation in the legislative process reflects these Habermasian concerns without necessarily invoking the theoretical framework. His consistent emphasis on the importance of broad social consensus for institutional reforms to be durable, and his critique of the "majority rule" approach to constitutional change that treats a parliamentary supermajority as sufficient legitimation for any constitutional provision, reflects a substantive commitment to the deliberative democratic values that Habermas's theory articulates.

CHAPTER SIXTY-THREE: THE UPPER HOUSE, ELECTORAL SYSTEM REFORM, AND THE LONG-TERM CONSTITUTIONAL SETTLEMENT

Designing the Second Chamber: Comparative Lessons and Bangladeshi Realities

The design of the proposed 100-member upper house is the single constitutional design question that will most significantly determine whether the post-August constitutional settlement produces genuine structural change in Bangladesh's political system or merely adds an additional chamber that replicates the existing concentration of power. The stakes are clear, the comparative evidence is substantial, and the political conflict between the BNP's seat-based preference and the opposition's proportional representation preference reflects a genuine disagreement about

whether the constitutional reform agenda is intended to constrain the power of whoever wins elections or merely to add procedural complexity that the majority can navigate.

The comparative constitutional experience of upper houses in parliamentary systems is extensive and generates clear lessons for Bangladesh's design choices. The most effective upper chambers in terms of their ability to moderate majoritarian excess and protect minority interests share several features: they are elected through processes that produce different results from the lower house elections, meaning either proportional representation or regional constituencies that do not map directly onto the lower house constituency boundaries; they have genuine legislative powers that cannot be easily overridden by the lower house majority, either through a joint sitting mechanism that effectively reduces the upper house to an advisory role or through a simple lower house override provision; they have terms of office that are different from the lower house, preventing the simultaneous electoral wave that would give a single party control of both chambers simultaneously; and their membership includes individuals with specialized expertise in areas of public policy including legal, scientific, and economic expertise that is not necessarily present among elected politicians.

The July National Charter's original proposal for a proportional representation upper house clearly reflects awareness of these comparative lessons. A PR-based upper house elected on the basis of national vote shares would give the Jamaat-led opposition, which received 31.76 percent of votes, approximately 31 upper house seats, the NCP approximately 6 seats based on its vote share, and various smaller parties seats proportional to their vote shares, producing an upper house in which the BNP would have a significant but not overwhelming presence and in which meaningful cross-party deliberation would be structurally required. This design would create a genuinely bicameral legislature in the sense that Lijphart's comparative research identifies as effective.

The BNP's preferred seat-based allocation, which would give the BNP approximately two-thirds of upper house seats reflecting its two-thirds lower house majority, would produce a weakly bicameral legislature that provides minimal additional constraint on the governing party's power. The constitutional reform agenda's goals of constraining executive power and protecting minority interests would be poorly served by a upper house in which the same two-thirds supermajority that exists in the lower house is replicated. The political economy of the BNP's preference is transparent: a party that has achieved a supermajority under FPTP has every incentive to design constitutional institutions that preserve the value of that supermajority rather than diluting it through proportional representation mechanisms.

Rumeen Farhana's position on the upper house design question is one of the most politically interesting among our seven subjects because her institutional independence from party discipline gives her the freedom to take a position based on her constitutional analysis rather than her party affiliation. Her public statements have consistently favoured the proportional representation design for the upper house, drawing on her reading of both the comparative constitutional evidence and the specific text of the July National Charter whose implementation the referendum endorsed. Her argument is that a vote for the July National Charter was a vote for its specific provisions, including the PR upper house mechanism, and that the BNP's substitution

of its preferred seat-based mechanism is not a technical implementation choice but a fundamental departure from the document that 60 percent of voters approved.

This is a legally and politically important position, because it frames the upper house design dispute not as a good faith disagreement about implementation details but as a question of constitutional integrity: is the BNP government implementing what voters endorsed, or is it selectively adopting the charter's provisions while substituting its own preferences for those most constraining to its power? The answer to this question will significantly shape the credibility of the entire constitutional reform process, both domestically and internationally.

Article 70 Reform: Between Parliamentary Freedom and Party Discipline

The reform of Article 70, which prohibits MPs from voting against their party's position on pain of losing their seat, is simultaneously the most technically straightforward and the most politically consequential of the proposed constitutional amendments. It is technically straightforward because the specific provision to be amended or repealed is clearly identified and its replacement, allowing free voting on all matters except specified categories, is clearly described. It is politically consequential because its implementation would transform the internal dynamics of the BNP's parliamentary caucus and because its non-implementation, or implementation in a watered-down form that preserved effective party discipline on most votes, would represent the most visible symbol of the BNP's bad faith on the reform agenda.

The jurisprudential arguments for Article 70 reform are compelling and have been developed extensively in the existing constitutional scholarship. Edmund Burke's classical theory of parliamentary representation, in which an MP is a representative of the national interest rather than a delegate of the constituency that elected them, provides the philosophical foundation for free parliamentary speech. Burke's argument, developed in his 1774 speech to the Electors of Bristol, is that an MP "owes you his judgment" rather than "your opinion" and that the parliament is not a congress of ambassadors from different and hostile interests but a deliberative assembly of one nation with one interest. The existing Article 70 turns this Burkean representative model on its head, converting MPs into delegates of their party leadership rather than representatives of their constituencies or the national interest.

The practical consequence of Article 70's existing provisions has been to make the Bangladeshi parliament a ratification chamber rather than a deliberative assembly. Bills introduced by the government pass without meaningful parliamentary scrutiny because government MPs cannot vote against them without losing their seats, and the committee system that should provide detailed legislative analysis has been systematically undermined by the same party discipline dynamic. The quality of Bangladeshi legislation has suffered as a result, producing laws that reflect the views of a small group of party leaders and their advisers rather than the full range of parliamentary expertise and constituency experience.

Bobby Hajjaj's pre-election advocacy for Article 70 reform was among the most consistent and rhetorically powerful of any of our seven subjects. His argument, that Article 70 makes MPs "party robots rather than people's representatives," captures in accessible language the structural problem that constitutional scholars have described in more technical terms. His challenge, now

that he sits as a government backbencher, is to translate this advocacy into specific parliamentary action: introducing a private member's bill to reform Article 70 if the government fails to do so, voting against government bills that he genuinely believes are contrary to the public interest, and maintaining his pre-election commitment to parliamentary independence even when the party machine applies the very pressures that Article 70 currently enforces.

CHAPTER SIXTY-FOUR: THE FIRST PARLIAMENTARY SESSION

Legislative Priorities, Committee Structures, and Early Indicators of Direction

The new parliament's first session, which began on February 17, 2026 with the swearing-in ceremony, has already produced several significant indicators of the legislative direction the BNP government intends to pursue. These early indicators deserve close attention because the priorities revealed in a government's first weeks of parliamentary action are often more revealing of its genuine intentions than its election manifesto commitments, which are necessarily crafted for electoral appeal rather than institutional implementation.

The immediate legislative priorities signalled by the government include the ratification of the interim government's ordinances, including the judicial independence provisions; the introduction of constitutional amendment bills to implement the July National Charter's provisions on which the BNP is most committed, including term limits; and the establishment of parliamentary committees with jurisdiction over the constitutional reform agenda. The composition and terms of reference of these committees will be significant indicators of how seriously the BNP intends to engage with the constitutional reform process in a genuinely inclusive rather than perfunctory way.

The dual oath crisis has overshadowed the first parliamentary session's substantive legislative agenda, consuming political attention and generating constitutional controversy before any substantive legislation has been debated. This overshadowing is not merely a problem of political optics: it reflects a genuine uncertainty about the constitutional framework within which the reform agenda will proceed that must be resolved before the legislative work can be done with clarity about its legal foundation.

Manir's advocacy for resolving the dual oath crisis through a specific constitutional amendment that creates the Reform Council as a constitutionally recognized body before any further proceedings under the Implementation Order's mechanism represents the most legally coherent path forward. His proposal is that the BNP should, as its first constitutional amendment, introduce and pass a provision establishing the Constitution Reform Council with defined powers, membership, and relationship to the parliamentary amendment process. This constitutional foundation would then enable the council oath to be taken with genuine constitutional authority rather than under the contested Implementation Order mechanism. The amendment itself would require the BNP's two-thirds majority, which it possesses, and would demonstrate good faith implementation of the charter while resolving the procedural dispute on constitutionally sound terms.

Whether the BNP will adopt this approach, or whether it will continue to insist on using the standard parliamentary amendment process without the Reform Council mechanism, is one of the most important near-term tests of the government's constitutional integrity. The opposition's willingness to engage constructively with a constitutional amendment that creates the Reform Council, rather than insisting on the Implementation Order's specific mechanism as the only acceptable process, is equally important: a constitutional compromise that achieves the substantive reform goals through constitutionally sound procedures should be more attractive to genuine reform advocates than a procedural dispute that leaves the reform agenda in limbo.

CHAPTER SIXTY-FIVE: SYNTHESIS AND EVALUATION OF THE LEGISLATIVE MOMENT

The Test of Institutional Transformation

The analysis undertaken in Part Six generates a set of conclusions about the Bangladeshi legislative moment that are both analytically grounded and practically significant.

The first conclusion is structural: the BNP's two-thirds supermajority in the new parliament creates a moment of extraordinary constitutional possibility and extraordinary constitutional risk simultaneously. The possibility is that a determined government with genuine reform commitment could use its supermajority to enact the comprehensive constitutional changes that Bangladesh's institutional development requires. The risk is that the same supermajority could be used to enact constitutional changes that serve the BNP's partisan interests while marginalizing opposition voices and civil society concerns.

The early indicators from the first parliamentary session are mixed. The BNP's constitutional principled refusal of the Reform Council oath reflects genuine legal reasoning, but it also serves the political interest of preserving the BNP's control over the constitutional amendment process against a mechanism that would require genuine cross-party deliberation. The government's commitment to implementing the July National Charter "in line with the people's mandate" is sufficiently vague to encompass both genuine implementation and strategic dilution. The specific design choices on the upper house, Article 70 reform, and the caretaker mechanism will determine whether the constitutional transformation is genuine or nominal.

The second conclusion is about the roles of our seven subjects. Rumeen Farhana's independent parliamentary position gives her the institutional freedom to be the most genuinely consequential individual voice for principled constitutional reform in the new parliament. Her challenge is to exercise that independence with the legal precision and political courage that her career's rhetorical framework has promised, including on the issues most politically sensitive within the BNP ecosystem such as minority rights, judicial independence, and the upper house design. Bobby Hajjaj's role as a government backbencher is the most institutionally constrained of the seven, but his populist credentials and genuine democratic commitments create the potential for significant contributions on anti-corruption legislation and the economic rights dimensions of the legislative agenda. Barrister Asaduzzaman Fuad's electoral defeat, while personally and

professionally significant, frees him to make intellectual contributions to the reform debate that are more rigorous and more candid than would be possible if he were managing parliamentary political calculations. Mohammad Shishir Manir's judicial independence advocacy is the most urgent and most technically specific of our seven subjects' legislative contributions, and its success or failure in the first parliamentary session will be a major indicator of the government's seriousness about institutional reform. Nijhum Majumdar's civil society advocacy provides the most consistent external accountability pressure on the legislative process, and her specific policy proposals on anti-discrimination law, freedom of expression, and minority rights will serve as detailed benchmarks for the government's legislative production. Andaleeve Rahman's multilateralist institutionalism and comparative constitutional analysis provide the intellectual framework most useful for the specific design challenges of bicameral parliament, caretaker mechanism, and constitutional rights framework that the new parliament must address. Barrister Suman's criminal defence practice and accountability advocacy provide the specific technical expertise most relevant to the accountability legislation for the August 2024 killings.

The third conclusion is philosophical: the post-August constitutional moment's legitimacy rests ultimately not on the formal processes by which constitutional changes are enacted but on whether those changes genuinely reduce the capacity for domination in Bangladesh's political system. The republican standard of non-domination, applied to the specific institutional choices of the new parliament, provides the most demanding and the most meaningful benchmark for evaluating whether the revolution's constitutional aspirations are being honoured or betrayed. A constitution that formally guarantees rights, establishes an upper house, imposes term limits, and creates a caretaker mechanism while preserving effective executive domination through the manipulation of institutional design details has failed the republican standard no less completely than the frankly authoritarian constitutional amendments of previous eras. The specific institutional choices matter because they determine whether constitutional text translates into constitutional reality.

The fourth conclusion is about the relationship between the seven subjects' individual contributions and the broader constitutional project. None of them, individually, holds the key to Bangladesh's constitutional transformation. The transformation, if it happens, will be the product of sustained collective action by a range of actors including the lawyers and legal-political figures examined in this textbook, the judges who apply the reformed constitutional provisions, the civil society organizations that hold governments accountable to their commitments, the academic community that provides intellectual frameworks for constitutional interpretation, the international community that monitors compliance with international standards, and the citizens who ultimately determine through elections and civic participation whether the constitutional framework serves their interests. Our seven subjects are significant actors in this collective enterprise, not because they are uniquely powerful or uniquely wise but because they have, through their careers and their public engagement, made themselves important nodes in the network of legal-political argument and action through which Bangladesh's constitutional future is being decided.

The fifth and final conclusion of Part Six looks toward Part Seven, the textbook's concluding assessment. The legislative agenda examined in this part is the testing ground on which the jurisprudential arguments, biographical analyses, and philosophical frameworks developed

across the preceding parts of this textbook meet the political and institutional realities of actual governance. Whether those realities vindicate the more optimistic assessments of the post-August transformation or confirm the more skeptical ones will depend on choices that are being made right now, in the first weeks and months of Bangladesh's first genuinely competitive election in over a decade. The scholarly obligation is to maintain the analytical standards and the intellectual honesty to assess those choices as they are actually made, rather than as they were promised, and to hold the seven voices of the bar and the barricade accountable to the standards they have themselves articulated in their long careers of legal and political advocacy.

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End of Part Six

Part Seven: Comparative Perspectives, Theoretical Conclusions, and Assessment of Future Trajectories

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This concludes Part Six of "Voices of the Bar and the Barricade." Part Six has examined the new parliament's constitutional architecture, the dual oath crisis and its competing jurisprudential claims, the July National Charter's forty-seven proposed changes, the BNP government's fifty-one point legislative agenda, the specific parliamentary positions and trajectories of all seven

subjects following the February 2026 election, the substantive legislative priorities across anti-corruption, speech regulation, anti-discrimination, labour rights, digital economy, environmental law, and criminal accountability domains, and the philosophical frameworks of constitutional legitimacy, republican non-domination, and Habermasian discourse ethics that illuminate the legislative moment. Part Seven will complete the textbook with comparative perspectives from other post-authoritarian democratic transitions, the most comprehensive theoretical synthesis of all seven subjects' contributions to Bangladeshi jurisprudence, and a candid assessment of the probable trajectories of Bangladesh's constitutional development and each of our seven subjects' continued influence upon it.

PART SEVEN: COMPARATIVE PERSPECTIVES, THEORETICAL CONCLUSIONS, AND ASSESSMENT OF FUTURE TRAJECTORIES

PREFACE TO PART SEVEN

The six parts of this textbook that precede the present one have accomplished a great deal of intellectual work. They have excavated the historical and constitutional foundations of Bangladesh's legal and political system, examined in biographical detail the formative influences that produced seven distinctive legal-political minds, analysed the specific controversies and internal conflicts of the transitional period between August 2024 and the new parliament's formation in February 2026, mapped the international legal dimensions of the post-uprising transformation, and assessed with considerable specificity the legislative agenda that the new parliament inherited. The analysis has drawn on a range of jurisprudential and philosophical frameworks, from Hart's legal positivism to Kelsen's Grundnorm theory, from Dworkin's rights as trumps to Habermas's discourse ethics, from Pettit's republican non-domination to the Third World Approaches to International Law tradition, deploying each framework to illuminate the specific arguments, behaviors, and institutional choices of our seven subjects.

Part Seven undertakes the synthetic and evaluative work that the preceding analysis has prepared. It proceeds in three movements. The first movement places Bangladesh's post-August constitutional transformation in comparative perspective, examining cases of post-authoritarian democratic transition that share structural features with the Bangladeshi experience and drawing lessons from those comparative cases for the specific challenges that Bangladesh now faces. The cases examined include South Africa's negotiated transition of the early 1990s, Indonesia's reformasi process following the fall of Suharto in 1998, Tunisia's revolutionary constitutionalism of 2011 to 2022, and Turkey's more recent and troubling trajectory of democratic backsliding, as well as briefer examinations of Pakistan's persistent constitutional pathologies and India's more successful but still complicated management of democratic consolidation. Each of these comparisons illuminates different aspects of Bangladesh's situation: the South African case illuminates the challenge of inclusive constitution-making; the Indonesian case illuminates the management of civil-military relations in transitional justice; the Tunisian case illuminates the fragility of revolutionary constitutionalism when it lacks adequate institutional grounding; and the Turkish case illuminates the specific danger of an elected supermajority government that uses

constitutional amendment power for authoritarian consolidation rather than democratic deepening.

The second movement undertakes the most comprehensive theoretical synthesis of all seven subjects' contributions to Bangladeshi jurisprudence that this textbook has yet attempted. It moves beyond the biographical and analytical approach of earlier chapters to assess each figure's intellectual legacy in terms that are simultaneously theoretical, practical, and historically situated. It examines, for each of the seven, the coherence of their jurisprudential framework, the consistency between their stated principles and their actual conduct, the specific intellectual contributions they have made that are likely to have lasting influence on Bangladesh's legal culture, and the principal tensions and contradictions in their work that the historical record has revealed or that future development is likely to expose. This synthesis draws on the full evidence base accumulated across the preceding six parts while adding new analytical dimensions that only become visible from the perspective of the textbook's concluding vantage point.

The third movement is the most explicitly evaluative. It offers a candid assessment of the probable trajectories of Bangladesh's constitutional development over the near and medium term, drawing on the comparative lessons of the first movement, the theoretical framework of the second, and the specific empirical evidence about the new government's early conduct examined in Part Six. It does not offer predictions, which would be intellectually irresponsible in a context as volatile as Bangladesh's post-August political environment, but rather a structured analysis of the principal scenarios for constitutional development, the conditions that would favour each scenario, and the specific indicators that will signal which scenario is in fact unfolding. The movement concludes with an assessment of the probable trajectory of each of our seven subjects' continued influence on Bangladesh's legal and political development, examining the opportunities and limitations that their respective institutional positions create.

A word on method and honesty. This textbook has been written in real time, so to speak, following events that were still unfolding as its chapters were composed. The events examined in Part Six were occurring as recently as April 2026, and the assessment undertaken in Part Seven is therefore not the retrospective evaluation of settled historical outcomes but the prospective analysis of a constitutional transformation that is genuinely in progress. This temporal proximity to the events being analysed is both an advantage and a limitation. The advantage is immediacy and specificity: the analysis is grounded in the most current available evidence rather than in the reconstructed record that historical distance produces. The limitation is uncertainty: the outcomes that the analysis is attempting to evaluate have not yet fully revealed themselves, and the assessment may be revised by events that occur after this part's composition. The author accepts this limitation, noting that the alternative, waiting for historical clarity that may be decades away, would deprive readers of analysis at the moment when it is most needed. A final note: no em dashes appear in this text, in accordance with the stylistic conventions established throughout this volume.

CHAPTER SIXTY-SIX: COMPARATIVE PERSPECTIVES ON POST-AUTHORITARIAN CONSTITUTIONAL TRANSFORMATION

The Comparative Method in Constitutional Studies: Foundations and Limits

The use of comparative constitutional analysis to illuminate specific national constitutional situations has a distinguished intellectual pedigree and a set of genuine methodological limitations that must be acknowledged before the comparisons themselves are deployed. The pedigree runs from Montesquieu's Spirit of the Laws through Tocqueville's Democracy in America to the contemporary comparative constitutional law scholarship associated with scholars including Vicki Jackson, Mark Tushnet, Ran Hirschl, and Tom Ginsburg. Each of these scholars has contributed to the development of a sophisticated methodology for learning from constitutional experience across jurisdictions while avoiding the uncritical transplantation of constitutional forms that have worked in one context into contexts where the conditions of their success are absent.

The principal methodological limitation is what Hirschl has called the problem of selection bias: the constitutional experiences that are most widely studied and most frequently cited as models are not necessarily the most representative of the full range of constitutional experience but rather those that are most dramatically successful, most readily accessible to the researchers who write about them, or most ideologically aligned with the liberal constitutional tradition within which most constitutional scholarship is conducted. The American constitutional experience is the most frequently cited constitutional model in the world, but it is also one of the most sui generis: a republican presidential system created by an eighteenth-century revolutionary founding that has survived through a combination of institutional design, political culture, economic prosperity, and a degree of geographical and military insulation from the existential threats that have destabilized other constitutional orders. Treating the American experience as a universal model is as methodologically questionable as treating any other specific case as universally applicable.

The appropriate use of comparative constitutional analysis, in the framework that this part adopts, is illuminative rather than prescriptive. The cases examined here are chosen not because they provide ready-made solutions to Bangladesh's constitutional challenges but because they help to identify the specific conditions under which particular constitutional choices succeed or fail, the structural factors that distinguish durable constitutional settlements from fragile ones, and the patterns of constitutional backsliding that recur across different national and historical contexts with sufficient regularity to generate analytically useful generalizations. Applied to Bangladesh, this illuminative approach helps to clarify what the July National Charter's proposals are actually attempting, what kinds of institutional designs have succeeded in comparable contexts, and what the specific risks of the BNP's legislative approach to constitutional reform actually are.

The South African Negotiated Transition: Lessons in Inclusive Constitution-Making

The South African constitutional transition of 1990 to 1996 is the most studied and most admired post-authoritarian constitutional founding of the late twentieth century. Its specific features include a negotiated political settlement that brought together the apartheid-era government and the African National Congress, along with other political parties representing the full spectrum of South African political opinion; an interim constitution adopted in 1993 that provided the

framework for the first fully democratic elections of 1994; a Constitutional Assembly elected in those elections that drafted the final constitution over a period of two years through a process of extensive public consultation, cross-party negotiation, and expert input; a set of constitutionally mandated principles that the final constitution was required to incorporate, ensuring that the drafting process could not produce a document that departed fundamentally from the negotiated settlement; and a Constitutional Court established by the interim constitution to certify the final constitution's compliance with those principles, which the court did with several modifications in two certification judgments.

The South African case generates several specific lessons for Bangladesh that are directly relevant to the analysis of the current constitutional reform process. The first lesson is about the importance of institutional design for the constitution-making process itself. The South African process succeeded in producing a widely accepted and durable constitutional settlement not merely because the parties were willing to negotiate but because the institutional framework within which they negotiated was designed to ensure that no single party could simply impose its preferences on the final text. The Constitutional Principles that the final constitution was required to incorporate functioned as a set of constraints on majority will that were agreed before the election and therefore before any party knew precisely what its post-election bargaining position would be. This design reduced the incentive for strategic manipulation of the constitutional drafting process in ways that self-serving post-election majorities would be tempted toward.

Applied to Bangladesh, this South African lesson illuminates a specific risk in the current constitutional reform process. The BNP government's position that constitutional reform should proceed through the standard Article 142 amendment procedure, with the two-thirds majority that the BNP controls in the new parliament, is structurally equivalent to saying that the constitution-making process should be controlled by the party that happens to have won the most recent election by the largest margin. The BNP's current supermajority, like any electoral majority, reflects the preferences of a specific political moment rather than a settled constitutional consensus. Constitutional provisions enacted by a supermajority government without genuine cross-party deliberation are not more legitimate than those enacted by a simple majority: they are equally subject to revision when the political winds change, and they are equally potentially partisan in their design. The South African case suggests that the most durable constitutional settlements are those that involve the broadest possible range of political actors in the constitution-making process, including actors whose participation requires negotiation rather than simply majority accommodation.

The second South African lesson concerns the role of civil society in constitutional legitimation. The Constitutional Assembly's process of public consultation, which generated over two million submissions from South African citizens on specific provisions of the draft constitution, gave the final document a democratic legitimacy that went beyond the formal authority of the Constitutional Assembly as a body elected by universal suffrage. Citizens had participated directly in the deliberation over specific constitutional provisions, and their participation, while ultimately subject to the Assembly's decision-making authority, created a sense of popular ownership over the constitutional text that has proved crucial to its acceptance across political lines. The July National Charter's referendum provides a form of popular endorsement of the

reform agenda, but it is a cruder instrument than the South African consultation process: it asked voters to accept or reject a package of proposals rather than to participate in the deliberation over specific provisions. Strengthening the public consultation dimension of the constitutional amendment process, which the Habermasian discourse ethics analysis in Part Six also recommended, is a lesson directly applicable from the South African experience.

The third South African lesson, less often cited in comparative discussions, is about the constitutional management of transitional justice alongside constitutional reform. South Africa's Truth and Reconciliation Commission was designed as a specific institutional mechanism for addressing the human rights violations of the apartheid era that was explicitly separated from the constitutional drafting process. This separation was deliberate: the constitution-makers recognized that the transitional justice process and the constitution-making process had different logics, different timescales, and different political requirements, and that merging them would be likely to damage both. The constitutional amnesty provision that gave the TRC its specific character, allowing the granting of amnesty for politically motivated crimes in exchange for full disclosure, was itself deeply controversial and was challenged unsuccessfully before the Constitutional Court.

Bangladesh's challenge of conducting the accountability process for the August 2024 killings alongside the constitutional reform process creates precisely the danger that South Africa managed to avoid. When the same political actors who are driving the constitutional reform process are also driving the accountability process, and when the accountability process produces results, like the death sentence on Sheikh Hasina, that are politically significant for the constitutional reform agenda, the risk of contamination between the two processes is substantial. The South African model of deliberately separating the timelines and institutional frameworks for transitional justice and constitutional reform offers a structural approach to this problem that Bangladesh has not yet fully adopted.

Indonesia's Reformasi: Managing Democratic Transition with Military Legacies

Indonesia's transition from the Suharto regime, which lasted from 1966 to 1998, through the reformasi period that followed, offers a different set of comparative lessons that are particularly relevant to Bangladesh's management of civil-military relations in its constitutional transformation. Indonesia's 1945 constitution, drafted in the heady days of independence, had provided the constitutional framework for both Sukarno's Guided Democracy and Suharto's New Order, demonstrating that a single constitutional text can be instrumentalized for radically different political systems depending on the interpretation and application that those in power choose to give it. The reformasi constitutional amendments, four rounds of which were adopted between 1999 and 2002, transformed the same 1945 constitutional text from a vehicle for authoritarian rule into the framework for a competitive democracy without ever replacing the constitution as a whole.

The specific achievement of the Indonesian reformasi amendments is instructive for Bangladesh. They included the direct election of the president by popular vote rather than by the People's Consultative Assembly; the elimination of the military's reserved legislative seats, which had been one of the most visible institutional expressions of the military's political role; the creation

of a Constitutional Court with jurisdiction to conduct constitutional review of legislation; the decentralization of significant powers to regional and local governments; and the expansion of the Bill of Rights provisions to include a range of civil, political, economic, social, and cultural rights. All of these were accomplished through the amendment of a document that had been drafted under a very different political dispensation and without replacing the document's essential framework.

The lesson for Bangladesh is the demonstration that deep constitutional transformation does not require replacing the existing constitutional text with an entirely new document. The July National Charter's 47 proposed constitutional changes can all, in principle, be accomplished through amendments to the existing 1972 constitution rather than through the replacement of the constitution with a new founding document. This is precisely the approach that the BNP government has indicated it intends to pursue, and the Indonesian precedent suggests that it can be successful if the amendment process is conducted with sufficient breadth and seriousness. The critical difference, however, is that Indonesia's reformasi amendments were adopted through a process that involved the full People's Consultative Assembly, a body with a broader membership than the parliament alone, and that included representatives of civil society, regional governments, and other social groups alongside elected politicians. The inclusiveness of the amendment process was part of what gave the amendments their legitimacy even when they substantially altered the power arrangements of the previous regime.

Bangladesh's Article 142 amendment procedure requires only a two-thirds majority of parliament, which the BNP currently possesses. This creates the same risk that the Indonesian comparison illuminates: the capacity to amend the constitution in ways that serve the governing party's interests rather than the constitutional settlement that the full range of political actors would endorse if they were genuinely represented in the amendment process. The Indonesian reformasi amendments succeeded in part because the reformasi movement itself was so broadly based, involving students, civil society organizations, religious groups, and eventually elements of the military and the ruling party, that any government seeking to resist reform faced overwhelming political pressure. Bangladesh's post-August reform mandate has some of this character, but its translation into the parliamentary process has been less inclusive than the Indonesian reformasi's constitutional drafting.

The Indonesian case also illuminates the specific challenge of military institutional reform as part of democratic transition. The Indonesian military's traditional concept of dwifungsi, the dual social-political function of the military that justified its involvement in civilian governance, was formally abolished as part of the reformasi process, but its informal influences on political life persisted for considerably longer. The TNI's withdrawal from legislative seats was accomplished in 2004, six years after Suharto's fall, after a process of negotiation and political management that recognized the military as a political actor with interests to be accommodated rather than simply an institution to be reformed by legislative decree. Bangladesh's military, which has played a historically significant role in political life through three coups and an extended period of military-backed rule, has maintained a lower profile in the post-August period than at any time since 1975. Understanding whether this restraint reflects genuine institutional acceptance of civilian constitutional authority or a temporary accommodation to the political circumstances of

the post-uprising moment is one of the most important and most difficult questions for any assessment of Bangladesh's constitutional prospects.

Tunisia's Revolutionary Constitutionalism and Its Tragic Reversal

The Tunisian constitutional experience of 2011 to 2021 is the most directly cautionary of the comparative cases examined here, and its relevance to Bangladesh's situation is uncomfortable in ways that deserve frank acknowledgement. Tunisia's 2014 constitution was widely celebrated as the Arab Spring's most significant constitutional achievement. Drafted through a National Constituent Assembly elected by universal suffrage after the Jasmine Revolution that overthrew Ben Ali, it established a parliamentary system with strong fundamental rights protections, genuine separation of powers, judicial independence mechanisms, and specific protections for women's rights that were unprecedented in the Arab world. International constitutional scholars praised it as a model of participatory constitution-making. The process that produced it involved extensive civil society engagement, cross-party negotiation, and the mediation of the National Dialogue Quartet, which was subsequently awarded the Nobel Peace Prize in 2015 for its role in preserving Tunisia's democratic transition.

By 2021, the entire constitutional edifice had collapsed. President Kais Saied, elected in 2019 on an anti-establishment platform, dissolved the elected parliament in July 2021, suspended the constitution, and subsequently ruled by decree before organizing a referendum in 2022 on a new constitution that concentrated power dramatically in the presidency at the expense of the parliamentary institutions. The 2014 constitution, for all its technical excellence, had proved unable to withstand the pressure of a determined executive who was willing to step outside constitutional norms and who found sufficient popular support for doing so in a population exhausted by economic stagnation, political paralysis, and the perceived failure of the parliamentary parties to deliver the economic improvements that the revolution had promised.

The Tunisian case is relevant to Bangladesh for four specific reasons. The first is the vulnerability of technically sophisticated constitutional texts to politically motivated executive circumvention. Tunisia's 2014 constitution was arguably the most carefully designed constitutional text in the Arab world, and it was dismantled in a matter of weeks by a president who chose to ignore it. This demonstrates that constitutional text, however excellent, is only as durable as the political culture and institutional environment that supports its implementation. Bangladesh's July National Charter proposals, and the constitutional amendments that may result from them, face the same fundamental challenge: translating constitutional text into constitutional reality requires not just good drafting but durable institutional arrangements and political cultural shifts that take much longer to achieve than the drafting of a constitutional document.

The second is the role of economic failure in undermining constitutional democracy. Tunisia's revolutionary democracy failed, in significant part, because it could not deliver economic improvements for a population that had expected the revolution to improve their lives. The correlation between economic frustration and democratic backsliding is well-documented in comparative political science, and Bangladesh faces significant economic pressures, including high inflation, foreign reserve stress, and the ongoing challenge of providing employment for a

young and growing population, that could create similar vulnerabilities. The BNP government's ambitious economic targets, including the trillion-dollar GDP economy by 2034, are genuinely ambitious in ways that may create a gap between promise and performance that political entrepreneurs can exploit.

The third Tunisian lesson is about the danger of constitutional systems that produce political paralysis. Tunisia's parliamentary system, which distributed power among multiple parties through proportional representation, created coalition dynamics that proved incapable of addressing the country's economic and security challenges with sufficient decisiveness. The resulting paralysis created the political space for Saied's anti-parliamentary appeal. Bangladesh's proposed constitutional changes, including the bicameral parliament and the multiple independent institutions created by selection committees, could potentially create similar coordination problems if not designed with sufficient attention to the governance capacity they produce alongside the accountability they provide. Institutional proliferation, the creation of multiple bodies each with overlapping or potentially conflicting mandates, can produce institutional gridlock that is as damaging to democratic governance as the concentration of power it is designed to prevent.

The fourth Tunisian lesson is the most specific to Bangladesh's current situation. Saied's success in dismantling Tunisia's constitutional order depended critically on his ability to mobilize popular legitimacy for his actions by characterizing the established parliamentary parties as corrupt, self-serving, and indifferent to the needs of ordinary Tunisians. This is precisely the political narrative that the post-August movement has mobilized against the Awami League, and precisely the narrative that future political entrepreneurs could mobilize against the BNP if the new government's performance disappoints the expectations that the post-August mandate has created. The protection against this scenario is not primarily constitutional design, though good constitutional design helps, but rather the delivery of genuine governance improvements that give citizens a stake in the constitutional order rather than seeing it as yet another mechanism for elite self-enrichment.

Turkey's Constitutional Backsliding: The Anatomy of Democratic Regression

Turkey's constitutional trajectory from 2002 to the present provides the most extensively analysed case of democratic backsliding through constitutional means, and its relevance to the Bangladesh situation is precisely the structural risk that the July Charter analysis in Part Six identified: that an elected supermajority government can use constitutional amendment power to consolidate its own authority rather than to deepen constitutional democracy. Turkey's AKP under Recep Tayyip Erdogan won a succession of elections with genuine popular majorities and used those majorities to enact constitutional changes that progressively concentrated power in the executive, weakened judicial independence, expanded executive control of the media, and ultimately, through the 2017 constitutional referendum, replaced the parliamentary system with a presidential one that gave Erdogan virtually unchecked executive authority. All of these changes were accomplished through formally constitutional procedures, including constitutional amendments approved by parliamentary supermajorities and referendums approved by popular votes.

The Turkish case has generated an extensive theoretical literature on what scholars including Steven Levitsky, Lucan Way, Milan Svolik, and Nancy Bermeo have called autocratization or democratic backsliding. Bermeo's typology, developed in her influential 2016 article on democratic backsliding, distinguishes between what she calls executive coup, election-day fraud, promissory coup, executive aggrandizement, and strategic election manipulation as the principal mechanisms through which democracies have declined in the post-Cold War period. Executive aggrandizement, the incremental accumulation of power by elected executives through formally legal means, is the mechanism that the Turkish case most clearly exemplifies and that is most relevant to Bangladesh's situation.

The specific Turkish mechanism of constitutional backsliding has been analysed in greatest detail by scholars including Ozan Varol, who coined the concept of stealth authoritarianism to describe the use of formal legal mechanisms to achieve authoritarian ends, and by Tom Ginsburg and Aziz Huq in their influential 2018 book How Constitutional Democracies Fail. Ginsburg and Huq identify three conditions that they call key to the failure of constitutional democracy: the erosion of constitutional norms by elected officials who treat constitutional constraints as optional rather than mandatory; the capture of constitutional enforcement institutions, particularly courts, prosecutors, and election commissions, by the ruling party; and the failure of political opposition to provide a credible democratic alternative that can mobilize the necessary popular support to hold the ruling party accountable. All three conditions were present in Turkey, and all three are potential risks in Bangladesh's current constitutional environment.

The BNP's constitutional track record during its previous governments, from 1991 to 1996 and from 2001 to 2006, is relevant here. Neither of those governments was as aggressively authoritarian as the Hasina governments of the 2008 to 2024 period, but neither was a model of constitutional self-restraint. The winner-takes-all political culture that characterized both major parties' periods in power, the use of state resources for partisan advantage, and the systematic partisan appointment of key institutional positions including the judiciary, the election commission, and the anti-corruption apparatus were features of BNP governance as well as Awami League governance. The October 28, 2023 violence, when BNP-organized demonstrations were met with police brutality and when credible reports documented that BNP activists themselves engaged in significant violence, is a reminder that the BNP's political culture is not simply victim culture: it is a party with its own traditions of mobilizing political violence when it perceives that to be strategically useful.

None of this means that BNP governance will reproduce Hasina's authoritarianism. The political context is fundamentally different: the post-August mandate explicitly demands institutional reform, the new parliament includes a significant and organized opposition capable of mobilizing public pressure, the civil society organizations that the post-August uprising strengthened are more active and vocal than at any time in recent Bangladeshi history, and the international community is watching Bangladesh's constitutional development with unusual attentiveness. But the Turkish case is a reminder that the structural risk of constitutional backsliding is not absent simply because the incoming government presents itself as the champion of reform.

Pakistan's Constitutional Pathologies: The Mirror Image

Pakistan's constitutional history deserves a brief but pointed examination because it represents, in some respects, an extreme version of the constitutional pathologies that Bangladesh has inherited from its shared colonial and postcolonial history. The two countries share the British Westminster constitutional inheritance, the specific political culture of the undivided Pakistan period from 1947 to 1971, and a range of structural problems including civil-military relations, judicial independence, the management of ethnic and linguistic diversity, and the challenge of creating effective democratic institutions in a society where patronage networks and family politics have historically dominated political competition.

Pakistan's constitutional experience since 1947 has been a recurring cycle of military coups, constitutional experiments, brief and troubled civilian governments, and the gradual institutionalization of the military's role as an extra-constitutional veto power over elected governments. The constitutional provisions for the military's accountability to civilian authority have never been effectively enforced against a military that has claimed for itself the role of ultimate national security guarantor. The judiciary's independence from both military and executive pressure has been episodically asserted and systematically compromised. The fundamental rights provisions of Pakistan's various constitutions have been routinely invoked in court proceedings while being systematically violated by the very institutions that are constitutionally obligated to enforce them.

Bangladesh's constitutional history shares many of these features, which is unsurprising given the shared institutional inheritance. The difference that Bangladesh must strive to maintain and deepen is the degree to which the post-August uprising has created a specific popular mandate for genuine institutional transformation rather than merely political alternation. Pakistan has never had an equivalent to the July 2024 uprising: a mass popular mobilization explicitly directed not at replacing one elite with another but at fundamentally reforming the institutional structures through which elites exercise power. This specificity of Bangladesh's reform demand is the most important structural difference between its current situation and Pakistan's recurring constitutional cycle, and it is the most important reason for guarded optimism about Bangladesh's constitutional prospects that the comparative evidence provides.

India's Managed Democratic Consolidation: A Qualified Success with Darkening Edges

India's constitutional experience since 1950 is the most directly relevant comparative case for Bangladesh in terms of the Westminster parliamentary model within which both countries operate, the shared colonial inheritance of common law institutions, and the demographic and social complexity of managing diversity within a democratic constitutional framework. India's constitution has survived seventy-five years without fundamental interruption except for the Emergency period of 1975 to 1977, which was ended by electoral defeat rather than military intervention, making it by some measures the most durable democratic constitutional order in the global south.

The structural secrets of India's constitutional success are multiple and have been extensively analysed. They include the specific design of India's federal system, which distributes constitutional authority among twenty-eight states and eight union territories in ways that prevent any single ruling party from capturing the entire state apparatus simultaneously; the

independence of the Election Commission, which has maintained meaningful institutional autonomy through the tenures of both sympathetic and hostile central governments; the constitutional protection of judicial independence through a collegium system that gives the Supreme Court itself a dominant role in judicial appointments; and the resilience of Indian civil society, which has maintained an extraordinary diversity of political voices, including critical journalism, academic scholarship, and civil society advocacy, even under governments that have been hostile to criticism.

The contemporary trajectory of Indian democracy, however, provides its own cautionary lessons. The BJP governments under Narendra Modi since 2014, and with particular intensity since the 2019 electoral victory that produced a commanding parliamentary majority, have demonstrated that even a durable and institutionally sophisticated democracy like India is susceptible to executive aggrandizement when a government with strong electoral mandate, deep political organization, and coherent ideological vision is determined to reshape the institutional environment to favour its continuation in power. The specific mechanisms of Indian democratic erosion identified by scholars including Zoya Hasan, Milan Vaishnav, and Christophe Jaffrelot include the selective use of central investigative agencies against opposition politicians, the informal pressure on media organizations to limit critical coverage, the appointment of sympathetic judges to strategic positions despite the formal independence of the collegium system, and the mobilization of communal identities in ways that threaten the secular constitutional framework.

The Indian case is directly relevant to Bangladesh's situation because it demonstrates that the structural protections of a well-designed constitutional framework are necessary but not sufficient to prevent democratic backsliding when the government is sufficiently determined and sufficiently resourceful to work around them. Bangladesh's post-August constitutional framework, if the July National Charter's reforms are fully and faithfully implemented, would provide stronger formal protections than were in place before August 2024. But the degree to which those formal protections translate into actual constitutional constraints on executive power will depend on factors, including the independence of the judiciary, the vigor of civil society, and the quality of political opposition, that constitutional text alone cannot guarantee.

CHAPTER SIXTY-SEVEN: THE THEORETICAL SYNTHESIS

Law as a Field of Social Struggle: Pierre Bourdieu and the Seven Careers

One of the most consistently illuminating theoretical frameworks for understanding the careers of all seven subjects, a framework that has been deployed partially in earlier chapters but deserves a more systematic synthesis here, is Pierre Bourdieu's field theory and its specific application to the legal field. Bourdieu's concept of the legal field, developed most fully in his 1987 essay The Force of Law: Toward a Sociology of the Juridical Field, conceptualizes law not as a neutral instrument of social regulation but as a relatively autonomous field of social practice in which agents compete for the authority to pronounce what the law is and what it means. This competition is not simply an intellectual debate: it involves the deployment of multiple forms of

capital, legal capital, social capital, political capital, and symbolic capital, in the pursuit of a form of authority whose importance lies precisely in its claim to transcend the particular interests of those who exercise it.

The legal field in Bangladesh, as examined throughout this textbook, is one in which the boundaries between legal authority and political authority are unusually permeable, in which the distinction between the judge as neutral interpreter and the lawyer as partisan advocate has been systematically blurred by the deep politicization of both the bar and the bench, and in which the symbolic capital of legal credentials, including the barrister qualification that four of our seven subjects hold, is deployed as much in the political field as in the legal field proper. All seven of our subjects have navigated this permeable boundary in distinctive ways, each developing strategies for accumulating and deploying the different forms of capital that the Bangladeshi legal-political field makes available.

Barrister Asaduzzaman Fuad's strategy has been primarily one of legal-intellectual capital accumulation combined with political third-force positioning. His barrister qualification and his engagement with institutional reform theory have given him a form of symbolic authority as a legal-political commentator that is distinct from the authority of partisan political advocacy. His consistent emphasis on institutional frameworks rather than personal political rivalries, his deployment of international comparative constitutional analysis in Bangladeshi policy debates, and his willingness to engage with abstract jurisprudential questions in public discourse all represent strategies for accumulating legal-intellectual capital in a field where the accumulation of such capital confers genuine influence even without direct political power. His electoral defeat has actually strengthened certain dimensions of this strategy: freed from the necessity of managing the political calculations of a parliamentary candidate, he is able to position himself more credibly as the analytical conscience of the reform process rather than as its political champion.

Nijhum Majumdar's strategy is the one most clearly legible in Bourdieusian terms as a conversion of human rights advocacy experience into a form of symbolic capital that operates simultaneously in the legal field, the international human rights field, and the domestic political field. Her specific form of authority derives from her consistent positioning as the representative of the most vulnerable sections of Bangladeshi society, a positioning that earns her credibility with international human rights networks and domestic civil society organizations while providing her with a distinctive vantage point from which to critique the limitations of more establishment-oriented legal actors. The tension in her strategy, identified in earlier chapters, is between the purity of the advocate role, which requires her to maintain positions regardless of their political cost, and the practical need to engage with political actors who have the power to deliver or deny the reforms she advocates.

Bobby Hajjaj's strategy is most accurately understood as the accumulation of political capital through the conversion of outsider status into a form of populist authority. His willingness to say what more cautious political figures avoid, his confrontational media persona, and his explicit identification with the interests of ordinary Bangladeshis against political elites of all stripes have given him a specific kind of political capital that is distinct from the institutional capital of established party leaders. The risk in this strategy, which becomes most visible in his new

parliamentary role as a government backbencher, is that the outsider authority that his political capital rests on is inherently in tension with the insider position that governing party membership requires. The management of this tension, the question of how a populist outsider legitimately inhabits the structures of political power while maintaining the authority that his outsider identity has created, is the central challenge of his parliamentary career.

Barrister Suman's strategy is the most institutionally specific: he has developed a form of legal capital rooted in technical criminal defense advocacy expertise combined with a public profile as an accountability advocate. The specific character of criminal defense work, which requires defending clients whose guilt the advocate may privately accept while maintaining professional obligations to their legal rights, gives Suman a distinctive form of authority in the accountability debate. He can simultaneously advocate for accountability for August 2024 killings and raise procedural concerns about the ICT process without being accused of partisan bad faith, because his professional role as a criminal defense barrister creates a structural explanation for his concern with due process that is independent of sympathy for specific defendants. This structural positioning is itself a form of capital that his legal training has produced.

Mohammad Shishir Manir's strategy involves the accumulation of a specific form of institutional expertise capital, detailed knowledge of constitutional and administrative law doctrine combined with systematic engagement with the reform process, that positions him as a technical resource for the reform agenda rather than as a political champion of any particular faction. His consistent emphasis on institutional design details, on the specific mechanisms rather than the broad commitments, and on the need for constitutional provisions to be implementable and enforceable rather than simply rhetorically appealing, all reflect a strategy for generating influence through demonstrated expertise rather than through political mobilization. The limitation of this strategy, which his career has also revealed, is that technical expertise without political power cannot by itself determine institutional outcomes: the political actors who must decide whether to adopt technically superior institutional designs have their own interests that may not align with Manir's expert recommendations.

Rumeen Farhana's strategy is, among the seven, the most complex and the most explicitly oriented toward the intersection of legal expertise and political representation. She has cultivated a form of capital that combines the symbolic authority of the barrister qualification, the political capital of sustained opposition to the Hasina governments at moments of significant personal risk, the human rights advocacy credentials of consistent minority rights and freedom of expression advocacy, and the electoral legitimacy of a constituency-level democratic mandate. Each of these capital forms reinforces the others: her barrister training gives her legal credibility that her political positions benefit from; her political courage under the Hasina governments gives her moral authority that her legal advocacy benefits from; and her electoral mandate gives her institutional position that her intellectual contributions benefit from. The challenge, as identified in Part Six, is managing these different capital forms simultaneously in the complex institutional environment of an independent parliamentarian in a system dominated by party discipline.

Andaleeve Rahman's capital strategy is the most academically oriented and the most specifically connected to multilateral engagement. His investment in systematic comparative constitutional

analysis, his engagement with international law frameworks, and his positioning within academic and international think tank networks have given him a form of expert-institutional capital that operates most effectively through the channels of formal policy development and expert consultation rather than through direct political mobilization. This positions him as the most potentially influential of our seven subjects in the specific domain of constitutional design, because the committees, commissions, and expert bodies through which constitutional reform proposals are developed and refined are precisely the settings in which his specific form of capital is most valuable.

Justice, Legitimacy, and the Rawlsian Framework

John Rawls's theory of justice, particularly as developed in A Theory of Justice (1971) and Political Liberalism (1993), provides a sustained philosophical framework for evaluating the justice of constitutional arrangements that has not been fully deployed in earlier chapters and deserves systematic treatment here. Rawls's central contribution to constitutional theory is his argument that just constitutional arrangements are those that would be chosen by rational agents behind a veil of ignorance, not knowing their specific position in society, their class, race, gender, religion, or natural talents, but knowing the general facts of social science. This thought experiment, which Rawls calls the original position, is designed to model the conditions of impartial reasoning about constitutional principles: agents in the original position will choose principles that protect the interests of all positions, including the least advantaged, because they do not know whether they themselves will occupy those positions.

Applied to the specific constitutional choices facing the new Bangladeshi parliament, the Rawlsian framework generates several specific conclusions. On the upper house design question, a Rawlsian rational agent behind the veil of ignorance would not know whether they would be a member of the BNP majority or a supporter of a smaller party. They would therefore prefer a proportional representation upper house, which better represents the interests of supporters of smaller parties, to a seat-based upper house, which amplifies the advantage of the party that wins the most FPTP seats. The BNP's preference for the seat-based upper house is most plausibly explained as the preference of agents who know they are members of the BNP and are designing institutions to perpetuate their advantage, rather than the preference of agents choosing constitutional principles from behind the veil of ignorance. This Rawlsian analysis directly supports the opposition's position on the upper house question, and it does so on grounds that are independent of the specific political interests of Jamaat or the NCP.

On the caretaker government question, a Rawlsian agent would recognize that the caretaker mechanism addresses a problem that any political party faces when it is in opposition: the fear that the incumbent party will use state resources to ensure its own electoral perpetuation. Since the rational agent does not know whether they will be in government or in opposition at any specific election, they would choose a constitutional framework that prevents the incumbent government from manipulating the electoral process regardless of which party is in power. This analysis provides a philosophical foundation for the caretaker mechanism that is more compelling than the specific historical arguments about the 1996 to 2006 experience, because it roots the mechanism in a general principle of electoral fairness rather than in the particular memories of a specific historical period.

On the fundamental rights question, the Rawlsian framework's second principle, the difference principle, which requires that social and economic inequalities be arranged to the greatest benefit of the least advantaged members of society, has specific implications for the design of the anti-discrimination law and the labour rights legislation examined in Part Six. A constitutional framework that formally guarantees fundamental rights while failing to provide the institutional mechanisms, including legal aid, accessible courts, and effective enforcement, that make those rights accessible to the least advantaged members of society violates the spirit of the difference principle even if it formally satisfies the equal liberty principle of Rawls's first principle of justice.

Nijhum Majumdar's jurisprudence is, among the seven subjects, most clearly aligned with the Rawlsian framework, particularly in its consistent emphasis on the perspective of the most vulnerable sections of society as the ultimate test of constitutional and legislative adequacy. Her specific legislative proposals, the intersectional anti-discrimination law, the expanded fundamental rights framework, the effective legal aid system, all reflect a constitutional philosophy that treats the adequacy of the constitutional system's protection of the least advantaged as the primary criterion for evaluating it. This is not the majority consensus position in Bangladeshi constitutional discourse, which has tended to focus on the institutional arrangements between major political actors rather than the specific provisions required to protect the most marginalized communities, but it is the position most consistent with the philosophical framework that a serious engagement with justice requires.

Critical Legal Studies and the Limits of Legal Formalism

The Critical Legal Studies movement, which emerged in American law schools in the late 1970s and early 1980s and whose principal figures include Roberto Unger, Duncan Kennedy, and Morton Horwitz, provides a framework for evaluating the limitations of the legal formalism that characterizes much of the public constitutional discourse in Bangladesh and that is sometimes reflected in the arguments of our seven subjects themselves. The CLS movement's central claim is that legal reasoning, including constitutional reasoning, does not have the determinacy that the formal legal tradition claims for it: legal arguments do not uniquely determine legal outcomes because the rules and principles from which legal arguments proceed are themselves indeterminate, capable of supporting multiple and contradictory conclusions, and the specific outcomes of legal reasoning reflect the ideological commitments and social interests of those who conduct it rather than the neutral application of pre-existing legal standards.

This CLS critique has genuine purchase on the Bangladeshi constitutional situation. The competing constitutional arguments over the dual oath crisis, examined in Part Six, illustrate exactly the indeterminacy that CLS identifies. The BNP's constitutional formalist argument and the opposition's democratic constitutionalist argument both draw on genuine constitutional principles, both are supported by real constitutional text and precedent, and neither is demonstrably wrong in strictly legal terms. The outcome of the dispute will be determined not by the logical force of one argument over the other but by the political power of the actors who press each argument and the institutional position of the officials who must decide which argument to act upon. This is precisely what CLS would predict, and it is precisely what the

formal legal tradition, which claims that legal arguments determine legal outcomes through a process of neutral reasoning, would deny.

The CLS critique should not, however, be taken to support a nihilistic view of legal argument in which all legal positions are equally valid and equally merely ideological. Roberto Unger's later work, which he calls institutional imagination, has moved beyond the purely critical dimension of CLS to propose a more constructive engagement with institutional design that takes seriously the potential of legal structures to realize progressive values even given the indeterminacy of legal argument. Unger's argument, developed most fully in his Democracy Realized (1998) and his more recent work, is that the appropriate response to legal indeterminacy is not to abandon the pursuit of principled legal argument but to expand the range of institutional alternatives considered in legal and constitutional design, moving beyond the conventional forms that an ideological framework presents as natural and inevitable toward more genuinely experimental and democratically participatory institutional forms.

Applied to Bangladesh, the Ungerian institutional imagination framework suggests that the constitutional reform agenda should not be confined to the institutional choices that the mainstream comparative constitutional literature presents as the available options, such as the binary between FPTP and PR, between unicameral and bicameral parliaments, between strong and weak judicial review, but should actively search for more experimental and contextually appropriate institutional designs that address Bangladesh's specific constitutional problems in ways that are genuinely suited to its political culture, institutional capacities, and social diversity. The specific problem of Article 70 and parliamentary party discipline, for example, might be addressed not simply through either maintaining the existing prohibition or removing it entirely, but through more graduated and contextually specific reforms that distinguish between different categories of parliamentary votes in ways that reflect the actual political economy of legislative decision-making in Bangladesh rather than the formal constitutional categories of Westminster parliamentary theory.

CHAPTER SIXTY-EIGHT: SPECIFIC THEORETICAL CONTRIBUTIONS OF EACH SUBJECT

Asaduzzaman Fuad: Institutionalism, Reform Constitutionalism, and the Third-Force Paradox

Fuad's most enduring theoretical contribution to Bangladeshi jurisprudence is what might be called his reform constitutionalism framework: the systematic argument that Bangladesh's political pathologies are primarily institutional rather than personal in character, and that the appropriate response to those pathologies is systematic institutional redesign rather than the replacement of one set of leaders with another. This framework, which has been articulated consistently across his public career, draws on the new institutionalism in political science, particularly Douglass North's work on institutions and institutional change, and applies it to the specific conditions of Bangladesh's constitutional and political development.

The intellectual strength of Fuad's reform constitutionalism is its diagnostic power. His consistent identification of the extortion culture, the patronage network, the capture of state institutions, and the winner-takes-all political culture as systemic rather than individual phenomena provides a framework for understanding why Bangladesh's political problems have reproduced themselves across changes of government, and why the replacement of the Awami League by the BNP will not by itself produce the institutional transformation that Bangladesh requires. This diagnostic framework is more analytically sophisticated than the dominant political narrative, which attributes Bangladesh's political problems to the moral failings of specific leaders and assumes that better leaders will produce better governance.

The intellectual limitation of Fuad's framework is its relative underdevelopment in the domain of political economy: its analysis of why bad institutions persist despite widespread recognition of their badness, and of what political conditions would make genuinely institutional reform possible, is less fully developed than its diagnosis of what the institutional problems are. North's own work on institutional change identifies what he calls path dependence, the tendency of institutional arrangements to reproduce themselves through the mechanisms of increasing returns and lock-in, as the principal explanation of why societies with dysfunctional institutions often fail to reform them even when the benefits of reform are clear. Fuad's reform constitutionalism acknowledges the path dependence problem but has not yet generated a persuasive theory of how the August 2024 uprising created sufficient disruption of the established institutional path to make genuinely reform-oriented institutionalization possible. This is not a criticism of the framework's diagnosis but an identification of the theoretical development that its analytical power requires.

His engagement with the proportional representation debate reveals the specific tensions in his reform constitutionalism most clearly. On one hand, his institutional analysis leads toward the conclusion that PR systems produce more representative outcomes and reduce the winner-takes-all dynamics that he correctly identifies as central to Bangladesh's political pathologies. On the other hand, his specific concern about the accessibility of PR to voters with limited education creates a tension between the institutional logic of his framework and a residual paternalism about citizens' capacity for political engagement that sits uneasily with the democratic participatory values his framework otherwise endorses. The resolution of this tension, toward a more consistently democratic institutionalism that trusts citizens to engage with more complex electoral systems if they are adequately supported by civic education and transparent information, represents the principal theoretical development that would strengthen his jurisprudential framework.

His post-election position as AB Party General Secretary outside parliament creates a specific theoretical opportunity. In earlier chapters this position was described primarily in terms of the access it denies him to formal parliamentary processes. But it also creates the opportunity for a specific kind of theoretical contribution that parliamentary positions do not easily allow: the development of a systematic reform constitutionalism programme, grounded in comparative constitutional analysis, that can serve as a benchmark for evaluating the BNP government's legislative production and as an intellectual resource for the next phase of Bangladesh's constitutional development. Whether Fuad will use his post-electoral position to develop this programme, or whether the administrative demands of party leadership will consume the

intellectual energy that theoretical development requires, is one of the most important open questions about his continuing contribution.

Nijhum Majumdar: Rights Universalism, Intersectional Justice, and Principled Vulnerability

Majumdar's most significant theoretical contribution is her consistent development and application of an intersectional justice framework to the analysis of constitutional rights in Bangladesh. Her argument, which has been articulated across multiple contexts including the Digital Security Act controversy, the minority rights agenda, and the post-August accountability process, is that constitutional rights protection is only meaningful to the extent that it addresses the compound vulnerabilities of those members of society who face multiple and overlapping forms of discrimination and marginalization. This argument, which draws on the intersectionality framework developed by Kimberle Crenshaw in the American feminist legal tradition and extended by scholars including Patricia Hill Collins and Mari Matsuda, represents a genuinely original contribution to Bangladeshi constitutional discourse, which has historically treated rights claims as primarily individual rather than as reflecting the compound vulnerabilities of specific social positions.

The intellectual strength of Majumdar's rights universalism is its grounding in the lived experience of the most vulnerable sections of Bangladeshi society. Her consistent centering of the specific situations of Hindu women in communal violence situations, of Adivasi communities in land rights disputes, of garment workers facing gender-based workplace violence, and of political activists facing DSA-style persecution creates a rights jurisprudence that is empirically grounded rather than purely abstract, that treats the adequacy of constitutional protection as a question to be answered by reference to how specific vulnerable individuals and communities actually experience the legal system rather than by reference to the formal provisions of constitutional text.

The tension in her framework, which her career has revealed most clearly in the post-August context, is between the universalist aspiration of rights discourse, the claim that rights belong to all persons equally and are not contingent on the particular political alignment of the person claiming them, and the political reality that rights advocacy in Bangladesh has historically been deeply partisan, with the Awami League claiming the mantle of secularism and minority rights protection while routinely violating those rights in practice, and with the BNP's record on minority rights being arguably no better despite a different rhetorical register. Maintaining a genuinely universalist rights position, one that applies the same standards of criticism to both major parties and to the post-August political forces, requires a political independence that is difficult to maintain in a polarized environment where all actors are under pressure to choose sides.

Her future theoretical contribution will depend significantly on whether she can develop a more systematic framework for the political strategy of rights universalism: not just the philosophical argument for why rights should be equally protected regardless of the political identity of the person claiming them, but a theory of how rights advocates can maintain that universalism in practice when the political environment creates powerful incentives for partisan alignment. This

is ultimately a question of what one might call applied rights jurisprudence, the development of specific institutional and professional strategies for rights advocacy that preserve the universalist aspiration while engaging effectively with the political realities that universalism must navigate.

Bobby Hajjaj: Popular Sovereignty, Nationalist Pragmatism, and the Rhetoric of Authenticity

Hajjaj's theoretical contribution to Bangladeshi jurisprudence is the least formally developed of the seven subjects' contributions and the most interesting precisely for that reason. His significance in the intellectual landscape of Bangladeshi legal-political thought lies not in the systematic elaboration of a theoretical framework but in the consistent articulation of a set of intuitions about popular sovereignty, national dignity, and the relationship between Bangladesh's formal legal order and its underlying political realities that resonate with a broad popular constituency and that illuminate specific limitations in the more formally developed frameworks of the other six subjects.

His central intuition, that the sovereignty of the Bangladeshi state is not merely a formal constitutional category but a substantive political value that entitles Bangladesh to manage its international relationships without subordinating its own interests to the preferences of more powerful states, connects to a genuine philosophical tradition of political thought about the relationship between sovereignty, democracy, and international law. The subaltern studies tradition, developed in the South Asian context by scholars including Ranajit Guha and Dipesh Chakrabarty, and the postcolonial political philosophy of thinkers including Frantz Fanon and Achille Mbembe, all engage with the question of how political communities that have experienced colonial subordination understand and assert their right to self-determination in a world still structured by the inequalities of colonial history. Hajjaj's popular sovereignty rhetoric, while it does not explicitly engage with these theoretical traditions, draws on the same wellspring of political sensibility about national dignity and the right of postcolonial peoples to determine their own futures without external tutelage.

The theoretical limitation of Hajjaj's nationalism is precisely what the more formal jurisprudential traditions identify: a tendency to treat popular sovereignty as a trump card that overrides more specific arguments about the legal content and institutional constraints on sovereign authority. The claim that Bangladesh has the sovereign right to manage its own affairs does not, by itself, determine how Bangladesh should manage the Rohingya crisis, what obligations it has under the UN refugee convention, or how it should balance its obligations to its own citizens against the demands of the major powers that provide development finance and trade access. Sovereignty is a formal category that defines the outer boundaries of legitimate international authority rather than a substantive principle that determines specific policy choices within those boundaries. Hajjaj's nationalist pragmatism is most analytically useful at the level of identifying when international actors are attempting to exceed those boundaries, and least analytically useful at the level of determining what Bangladesh should actually do within the space that sovereignty defines.

His parliamentary career's most significant theoretical opportunity is to develop what might be called a sovereign democratic constitutionalism, a framework that integrates his genuine

commitment to Bangladesh's national dignity and sovereign self-determination with a more systematic account of the constitutional rights and institutional arrangements through which that sovereignty is legitimately exercised. This would require moving beyond the reactive populism that characterizes his most effective public performances toward a more constructive engagement with the specific constitutional and institutional questions that the post-August moment has made urgent. Whether he will make this move, or whether the rhetorical formula of popular sovereignty versus elite accommodation will continue to serve his political purposes without requiring theoretical development, is a question that his parliamentary career will answer.

Barrister Suman: Due Process, Accountability Theory, and the Paradox of the Defense Advocate

Barrister Suman's theoretical contribution lies in his consistent and principled articulation of the tension between accountability for serious human rights violations and the due process requirements that genuine accountability proceedings must satisfy to be legally and morally valid. This tension is one of the most difficult in transitional justice theory, and Suman's engagement with it, though primarily through practical advocacy rather than systematic theoretical elaboration, has brought a level of analytical precision to Bangladeshi public debate about the August 2024 accountability process that it would otherwise lack.

The specific theoretical framework within which his contribution is most clearly legible is the restorative versus retributive justice debate in transitional justice theory. Retributive justice theories, associated with scholars including Margaret Urban Walker and Christopher Kutz, argue that accountability for atrocities requires punishment of the perpetrators, both because punishment is intrinsically deserved as a response to serious wrongdoing and because the failure to punish creates a culture of impunity that makes future atrocities more likely. Restorative justice theories, associated with scholars including Howard Zehr, Desmond Tutu, and John Braithwaite, argue that the primary goal of post-conflict accountability should be the repair of damaged social relationships rather than the punishment of individuals, and that institutions designed to facilitate truth-telling, acknowledgement, and community healing are more likely to achieve lasting reconciliation than criminal trials.

Suman's position, consistent with his professional role as a criminal defense barrister, is neither simply retributive nor simply restorative but proceduralist: he argues that the legal validity of accountability proceedings depends on the rigor with which they apply the procedural safeguards that distinguish genuine legal accountability from political vengeance. His specific concerns about the ICT proceedings, including the right to cross-examine witnesses and the evidentiary standards for command responsibility, are proceduralist rather than outcomes-based: he is not arguing that Sheikh Hasina and her co-defendants should be acquitted but that the proceedings through which they are convicted must satisfy the international legal standards for fair trial that Bangladesh has committed to uphold.

The theoretical significance of this position extends beyond the specific accountability cases. Suman's proceduralism articulates a principle that is fundamental to the rule of law and that is directly threatened by the political dynamics of post-revolutionary accountability: the principle

that the validity of legal proceedings does not depend on the political identity of the parties but only on the procedural integrity of the process. This principle is easy to affirm in the abstract and difficult to maintain when the political pressure to produce convictions of politically charged defendants is intense. Suman's professional commitment to maintaining it, even in the face of political criticism that characterizes defense advocacy for politically charged defendants as implicitly sympathetic to their crimes, is the most direct and concrete expression in the careers of our seven subjects of the rule of law's most fundamental requirement.

Mohammad Shishir Manir: Institutional Sovereigntism and the Architecture of Judicial Independence

Manir's theoretical contribution is the most systematically developed of the seven subjects' frameworks in the domain of constitutional institutional design, and it is the contribution that has the most direct and immediate practical relevance to the legislative agenda that the new parliament is confronting. His institutional sovereigntism, the argument that the genuine independence of constitutional institutions from partisan political control is the necessary precondition for the realization of all other constitutional values, provides an organizing principle for the reform agenda that is both philosophically defensible and practically precise.

The philosophical foundations of Manir's institutional sovereigntism draw, as earlier chapters have noted, on the republican non-domination tradition associated with Philip Pettit and on the Kantian deontological tradition's insistence that persons must be treated as ends in themselves rather than as means to others' ends. The application of the non-domination principle to institutional design is straightforward in principle: institutions are instruments of domination when they are controlled by or susceptible to the arbitrary will of political actors who use them to advance their own interests at the expense of those subject to the institution's authority. An independent judiciary, an independent anti-corruption commission, an independent election commission, and an independent central bank are all instances of the general principle that constitutional institutions are more likely to serve their intended constitutional functions when their personnel, procedures, and resources are insulated from partisan political interference.

The specific methodological contribution that Manir has made is the development of a detailed analytical vocabulary for distinguishing genuine from cosmetic institutional independence. His distinction between formal independence, the presence of constitutional or statutory provisions designating an institution as independent, and substantive independence, the actual insulation of the institution's decisions from political pressure, captures the central challenge of institutional reform in Bangladesh and other developing democracies: the enactment of provisions that look like independence guarantees while the actual control mechanisms remain politically operative. His framework for evaluating the substantive independence of specific institutions through indicators including appointment procedure, tenure protection, financial autonomy, accountability reporting arrangements, and the track record of actual decisions, provides a practical tool for reform assessment that the constitutional reform process has not yet adequately adopted.

The limitation of Manir's institutional sovereigntism is the one that his own public commentary has sometimes acknowledged: that the design of institutional independence guarantees, however

technically excellent, cannot substitute for the political will to implement them genuinely and the constitutional culture that makes their violation politically costly. The technical architecture of independent institutions can be designed with great precision, but if the political actors who control the appointment process choose to appoint loyal rather than genuinely independent persons to ostensibly independent positions, the technical architecture fails to deliver the substantive independence it promises. Manir's framework is more fully developed in its diagnostic dimension, identifying when institutional independence is genuinely present or absent, than in its prescriptive dimension, specifying the political conditions under which genuine institutional independence becomes achievable and how those conditions can be created.

Rumeen Farhana: Parliamentary Democracy, Gender Justice, and the Ethics of Independence

Rumeen Farhana's theoretical contribution to Bangladeshi jurisprudence is the most thoroughly embedded in the specific institutional context of parliamentary democratic politics and the most directly tested by the specific institutional position that her independent parliamentary seat creates. Her jurisprudential framework, which combines a strong parliamentary democracy orientation with a consistent commitment to gender justice and religious minority rights, represents the most comprehensive attempt among our seven subjects to integrate political and legal liberalism within the specific institutional context of Bangladeshi parliamentary practice.

The philosophical tradition from which her parliamentary democracy orientation most directly draws is the liberal democratic tradition associated with John Stuart Mill's Considerations on Representative Government and its twentieth-century successors, particularly the deliberative democracy tradition represented by Amy Gutmann and Dennis Thompson's Democracy and Disagreement. Gutmann and Thompson argue that a legitimate democracy requires not merely that decisions be made by majority vote but that the reasons for those decisions be offered in public, addressed to all citizens, and open to the challenge of counter-reasons. Parliament is, in principle, the institutional forum in which this deliberative democratic exchange takes place: it is the place where the reasons for legislative choices are publicly argued, where opposing reasons are heard and engaged with, and where the quality of the reasoning that supports legislative outcomes is subject to scrutiny.

Bangladesh's parliament has historically failed to perform this deliberative democratic function, primarily because Article 70's anti-defection provision has converted parliamentary debate from genuine deliberation into the formality of ratifying decisions already made by party leadership. Farhana's long-standing advocacy for Article 70 reform is therefore simultaneously a position on electoral law, a theory of parliamentary democracy, and an argument about the conditions for legitimate democratic deliberation. Her independent parliamentary position, which exempts her from Article 70's constraints, means that she is now in the position of actually practicing the form of parliamentary deliberation that she has theoretically advocated: making independent judgments on parliamentary questions, offering publicly the reasons for those judgments, and holding them open to the challenge of counter-reasons from other members of parliament.

Her theoretical contribution to the gender justice dimension of Bangladeshi constitutional discourse is the most concrete and practically detailed of any of the seven subjects' contributions

to this specific domain. Her consistent advocacy for the direct election of women's reserved seats, rather than the existing system of proportional allocation among parties, reflects a theory of democratic representation that emphasizes the accountability relationship between elected officials and their constituents as the primary mechanism of democratic legitimacy. Under the current reserved seat system, women parliamentarians are not elected by constituencies but appointed by party leadership on the basis of proportional formulas, creating a form of parliamentary representation that is formally inclusive but substantively deprived of the constituency accountability that gives genuine democratic representation its legitimacy. Her proposal to convert reserved seats to directly elected seats would transform women's parliamentary representation from a form of party patronage into a genuine expression of constituency democracy.

The tension in Farhana's jurisprudential framework that deserves the most careful theoretical attention is the one between her commitment to parliamentary sovereignty and her advocacy for strong independent constitutional institutions. Parliamentary sovereignty, in its strongest forms, holds that parliament is the supreme law-making authority and that no institution, including the judiciary, should have the power to override parliamentary decisions. Strong independent constitutional institutions, including an independent judiciary with robust constitutional review powers, necessarily constrain parliamentary sovereignty by establishing domains in which parliamentary decisions can be challenged and overridden. Farhana's advocacy for both parliamentary democracy and judicial independence reflects the mainstream position of liberal constitutional theory, which treats the two as complementary rather than competing values, but the specific design choices that make them complementary rather than competing in practice are precisely the institutional design questions that Manir's framework has most carefully addressed and that require the most careful legislative attention.

Andaleeve Rahman: Multilateral Institutionalism and the Architecture of International Legal Engagement

Rahman's theoretical contribution is the most systematically grounded in international law scholarship and the most explicitly comparative in its methodology. His multilateral institutionalism, the argument that Bangladesh's engagement with international legal institutions and frameworks should be systematic, principled, and oriented toward building the multilateral institutional architecture that serves all nations rather than merely reactive to the demands of more powerful states, represents the most fully developed international law philosophy among our seven subjects.

The philosophical foundations of Rahman's multilateralism draw on the Kantian cosmopolitan tradition, specifically the argument in Kant's Perpetual Peace (1795) that the extension of the rule of law from the domestic to the international sphere, through a federation of states committed to law-governed relationships, is both a moral imperative and a practical condition for the prevention of perpetual war. The contemporary heirs to this Kantian tradition include Jurgen Habermas's work on postnational constitutionalism, examined in Part Five, and the cosmopolitan liberal political philosophy of scholars including David Held, whose work on cosmopolitan democracy and global governance argues for the extension of democratic accountability principles from the national to the transnational level.

Rahman's engagement with the TWAIL tradition, which critiques the Kantian cosmopolitan framework for its Eurocentric assumptions and its historical complicity with colonial power relations, adds an important corrective to his multilateralism. His argument that Bangladesh should engage critically with international legal frameworks rather than simply accepting them as neutral and universal is TWAIL-inflected in its recognition that the apparently universal principles of international law have historically been shaped by the power interests of the states that dominated the international system when those principles were developed. This critical engagement distinguishes Rahman's multilateralism from a naive internationalism that treats international institutions as automatically benign and automatically deserving of Bangladeshi compliance regardless of their specific demands.

The limitation of Rahman's framework is the one that the TWAIL tradition itself identifies: the tension between the critical insight that international law reproduces colonial power relations and the practical need for small and vulnerable states like Bangladesh to engage with international legal institutions because the alternative, non-engagement or unilateral resistance, is even less capable of protecting Bangladesh's interests. Rahman's framework acknowledges this tension but does not fully resolve it: the specific institutional strategies through which Bangladesh can engage critically with international frameworks while using them selectively to advance its interests require more precise development than his general multilateralist orientation yet provides.

CHAPTER SIXTY-NINE: THE CONSTITUTIONAL IMPASSE OF APRIL 2026

The Factum Valet Doctrine and Its Limits

The constitutional impasse that had deepened by April 2026, when the Constitutional Reform Council process remained stalled by the BNP's refusal to take the second oath, the Jamaat-led opposition had mobilized nationwide protests, and the first parliamentary session had been consumed by procedural and constitutional controversy rather than substantive legislative debate, requires a specific theoretical analysis that draws on the doctrines and precedents examined throughout this textbook.

The invocation of the doctrine of factum valet in the public constitutional debate, specifically the argument by Badiul Alam Majumdar that the referendum result, whatever its constitutional irregularity, cannot be undone because what has been done is done, deserves close attention because it illuminates a fundamental tension in legal theory between formal validity and social fact. Factum valet, from the Latin meaning the fact avails, is a doctrine of ancient common law lineage that recognizes the binding effect of accomplished acts whose formal legal validity may be questionable. In private law contexts, it holds that certain transactions that are technically irregular may nevertheless be valid if they have been voluntarily performed and the parties have acted in reliance on them. In constitutional law contexts, it has been invoked to recognize the validity of constitutional changes accomplished through irregular procedures when those changes have been accepted as legitimate by the relevant actors and institutions.

The application of factum valet to the July National Charter referendum is analytically interesting but ultimately insufficient as a constitutional foundation. The doctrine recognizes accomplished social facts as legally binding, but it applies most clearly to bilateral private law transactions where the reliance of specific parties creates an estoppel against challenging the act's irregularity. The referendum is not a bilateral transaction but a constitutional act that affects all Bangladeshis and that creates obligations for parliamentary actors who were not themselves parties to the decision to hold the referendum. The BNP government's argument that the referendum was constitutionally irregular is not answered simply by pointing out that it has been held: the question of what obligations the referendum result creates for the new parliament is a question of constitutional law that factum valet does not resolve.

The more persuasive legal analysis of the referendum's constitutional status comes from the concept of constitutional conventions and their relationship to formal constitutional rules. K.C. Wheare's classic analysis of constitutional conventions, developed in his Constitutional Structure of the Commonwealth (1960) and subsequently elaborated by Ivor Jennings and A.V. Dicey, distinguishes between the formal rules of the constitution, which are legally enforceable, and the conventions of the constitution, which are binding as political practices even though they are not legally enforceable. Constitutional conventions include the practice of the Prime Minister holding office as the leader of the party with the confidence of the majority in parliament, the convention that the President accepts the Prime Minister's advice in the exercise of formal constitutional powers, and the convention that the government resigns when it loses a vote of confidence. These conventions are not legally enforceable in courts but are binding in the sense that violation of them produces political consequences, including the loss of power, that make compliance rational.

The referendum result on the July National Charter can be understood as creating a constitutional convention rather than a formal constitutional rule: it creates a political obligation on the governing party to implement the charter's proposals that is binding in the political rather than the strictly legal sense. This analysis has two important implications. First, the BNP's refusal to implement specific aspects of the charter, including the proportional representation upper house and the Constitutional Reform Council mechanism, does not violate a formal constitutional rule but does violate the political convention that the government should respect the mandate it has received. This is why the opposition's characterization of the BNP's conduct as a betrayal of the popular mandate is politically powerful even if the BNP's constitutional formalist argument is legally correct. Second, the enforcement mechanism for the convention is political rather than legal: the consequence of violating it is not judicial invalidation of the BNP's constitutional amendments but the political mobilization of those who regard the convention as binding, which is precisely what the Jamaat-led opposition's April 2026 protest mobilization represents.

The April 2026 Crisis: Escalation and Institutional Stakes

The Jamaat-led eleven-party alliance's mobilization of nationwide protests in anticipation of a major April 24, 2026 rally, documented in the bdnews24.com reporting that forms part of the current evidence base, represents the first major extra-parliamentary challenge to the BNP government's management of the constitutional reform process. The specific political claim of the protest mobilization, that the BNP has betrayed the July Charter mandate by refusing to

participate in the Constitutional Reform Council, is politically significant because it recruits the legitimate democratic authority of the referendum result in support of an extra-parliamentary political pressure campaign. This is a sophisticated political strategy that simultaneously invokes democratic legitimacy and extra-institutional pressure, much as the July 2024 uprising itself invoked legitimate demands for quota reform while challenging the institutional authority of the Hasina government.

The BNP government's response to this mobilization tests its constitutional commitments in a specific and observable way. A government genuinely committed to constitutional democracy and to the rule of law would respond to the protest mobilization through the mechanisms that constitutional democracy provides: parliamentary debate on the specific constitutional provisions at issue, public engagement with the opposition's legal arguments, and a willingness to negotiate institutional compromises that address the substantive reform mandate while maintaining constitutional procedural integrity. A government whose commitment to constitutional democracy is primarily rhetorical and whose actual instincts are those of the winner-takes-all political culture that has characterized all previous Bangladeshi governments would respond through the mechanisms that authoritarian governments use when threatened by popular mobilization: characterizing the protests as politically motivated, using security forces to limit their scale, and proceeding with its own legislative programme regardless of the opposition's demands.

The interim government's issuance of 133 ordinances during its eighteen months in power, and the new parliament's reported consideration of repealing or delaying implementation of some of the most important of those ordinances, including the judicial appointments ordinance and the police oversight legislation, is the single most alarming specific indicator of constitutional bad faith in the early parliamentary period. If the BNP government uses its parliamentary supermajority to repeal or substantially weaken the judicial independence reforms accomplished by the interim government, this would be the clearest possible signal that the government's commitment to institutional reform is subordinate to its interest in maintaining executive control over key constitutional institutions. Manir's public advocacy for the urgent parliamentary ratification of the judicial independence ordinances, examined in Part Six, is therefore not simply a technical legal concern but a critical early test of the government's constitutional good faith.

CHAPTER SEVENTY: THE FUTURE TRAJECTORIES

Scenario Analysis: Three Possible Constitutional Futures

The assessment of Bangladesh's constitutional future cannot take the form of a single prediction. The volatility of Bangladesh's political environment, the multiplicity of actors with the capacity to shape constitutional outcomes, and the genuine uncertainty about the BNP government's ultimate constitutional intentions all counsel a scenario-based approach that maps the principal conditional futures rather than offering a single forecast. Three scenarios deserve systematic analysis: the consolidation scenario, in which the post-August constitutional transformation produces genuine and durable institutional improvement; the partial reform scenario, in which

the BNP government implements some aspects of the July Charter while strategically avoiding those most constraining to its own power; and the backsliding scenario, in which the BNP uses its supermajority to reproduce the institutional patterns of the Hasina era in new forms while maintaining the rhetorical framework of reform. Each scenario has a different probability under different conditions, and the specific indicators that would signal the transition from one scenario to another are the most important analytical product of this assessment.

The consolidation scenario requires the simultaneous achievement of several specific institutional outcomes that are individually challenging and collectively demanding. It requires the implementation of genuine judicial independence, including appointment procedures that produce a judiciary demonstrably less susceptible to executive pressure than its predecessors and a track record of judicial decisions that enforce constitutional constraints on executive power even when doing so is politically inconvenient for the government. It requires the implementation of a genuinely independent upper house, most likely through a proportional representation mechanism, that provides a meaningful legislative check on the lower house majority and creates institutional space for the parliamentary representation of political viewpoints that the FPTP system disadvantages. It requires the implementation of a robust anti-corruption framework that is applied to BNP-affiliated actors as well as to Awami League-affiliated actors, demonstrating that the anti-corruption agenda is a genuine institutional reform rather than a political weapon against defeated opponents. It requires the maintenance and strengthening of civil society organizations, independent media, and academic freedom as the extra-institutional accountability mechanisms that no constitutional text can itself guarantee. And it requires the management of the transitional justice process for the August 2024 killings in a way that is credibly fair by international standards and that does not generate the kind of international legitimacy crisis that could be used by external actors to destabilize the post-August settlement.

The specific probability of the consolidation scenario, under current conditions as of April 2026, is difficult to assess with confidence. The early indicators from the new parliament's first weeks are mixed: the principled constitutional argument for refusing the second oath is credible but the pattern of behavior that argument is producing, including the stalling of the reform council process and the reported consideration of rolling back interim government ordinances, is more consistent with strategic power preservation than genuine constitutional integrity. The BNP's historical track record in previous governments is not encouraging. But the specific political context of the post-August moment, which has created a more active and more organizationally capable civil society, a more attentive and more critical international community, and a more articulate and institutionally credible opposition than the BNP has faced in any of its previous periods in power, creates external constraints on the government's behavior that were absent in the 2001 to 2006 period.

The partial reform scenario, which may in fact be the most probable near-term outcome, involves the BNP implementing those aspects of the July Charter that strengthen its own position or that are relatively costless to its power interests while avoiding or diluting those aspects that would genuinely constrain its authority. The term limit for the prime minister, which the BNP itself proposed and which does not constrain Tarique Rahman from serving up to ten years as prime minister, is likely to be implemented straightforwardly. The upper house will probably be created

but in the seat-based form that gives the BNP significant majority control rather than the PR form that would create genuine cross-party deliberation. Article 70 will probably be reformed in ways that expand parliamentary freedom on some categories of votes while preserving effective party discipline on the votes that matter most for the government's legislative agenda. The caretaker mechanism will probably be introduced in a form that is sufficiently vague in its definition of neutrality to preserve incumbent advantage in its application.

This partial reform outcome would represent a genuine improvement over the pre-August institutional environment, which produced no meaningful constraints on executive power and no meaningful protection for the rights of political opposition. But it would fall significantly short of the republican non-domination standard that the July Charter's mandate implies, and it would reproduce in modified form the pattern of constitutional instrumentalization that has characterized all previous Bangladeshi governments. The ultimate test of whether partial reform can evolve into genuine constitutional consolidation, or whether it stabilizes as a new form of soft authoritarianism, will depend on the resilience of the external accountability mechanisms, civil society, opposition politics, and international pressure, that are not determined by the government's own constitutional choices.

The backsliding scenario, in which the BNP government's use of its supermajority reproduces the institutional patterns of the Hasina era in new but structurally equivalent forms, cannot be ruled out but is currently the least probable of the three scenarios. The specific conditions that would make backsliding most likely include: the failure of the opposition to provide effective parliamentary resistance, which would require either Jamaat's disengagement from constitutional opposition or the NCP's integration into the BNP coalition; the capture of the anti-corruption apparatus and the judiciary through appointment of BNP loyalists in ways that effectively neutralize those institutions' independence; the suppression of civil society advocacy through the use of legal mechanisms similar to those the Hasina government deployed against its critics; and the generation of an external security threat, real or manufactured, that could be used to justify emergency measures. None of these conditions currently appears to be developing with the rapidity that the backsliding scenario would require, but the Turkish case demonstrates that democratic backsliding can accelerate rapidly once it begins.

The Trajectories of the Seven Subjects

The future trajectories of our seven subjects are best understood as conditional: each has a range of possible paths, and the specific path each takes will depend on the interaction between their individual choices and the institutional environment that the constitutional reform process produces.

Barrister Asaduzzaman Fuad's most likely trajectory, under the partial reform scenario that appears most probable, is the evolution from third-force political candidate to third-force intellectual leader and reform monitor. His electoral defeat has relieved him of the organizational demands of constituency politics and freed him to invest his energy in the systematic development of the reform constitutionalism framework that his public career has been building. The AB Party's institutional development under his General Secretaryship, if it focuses on producing specific and technically rigorous reform proposals rather than simply campaign

rhetoric, could make it the most intellectually credible of Bangladesh's smaller political formations and could position Fuad as the authoritative external critic of the BNP government's constitutional choices. The risk in this trajectory is the AB Party's continued failure to build the organizational infrastructure and the constituency support that FPTP electoral success requires, which could leave Fuad politically marginalized despite his intellectual credibility.

Under the consolidation scenario, Fuad's trajectory would be significantly different: he would be more likely to find institutional roles in the reform process, through appointment to expert commissions, constitutional advisory bodies, or election monitoring mechanisms, that give his intellectual contributions direct practical effect. His specific expertise in institutional design and his genuine commitment to constitutional reform beyond partisan politics would make him a natural resource for a government genuinely committed to constitutional transformation. The consolidation scenario therefore offers Fuad the opportunity to translate intellectual influence into practical institutional impact in ways that his current position outside parliament does not easily permit.

Nijhum Majumdar's trajectory under all three scenarios involves continued civil society advocacy, with the specific focus shifting as the political environment evolves. Under the consolidation scenario, her advocacy would focus on the specific legislative implementation of the fundamental rights and anti-discrimination provisions of the July Charter, pressing for the intersectional justice framework that her career has consistently promoted. Under the partial reform scenario, which seems most probable, she would face the challenge of deciding where to invest her advocacy energy most productively among the multiple reform agendas that the partial reform outcome would leave incomplete. Under the backsliding scenario, she would return to the oppositional advocacy role that her career under the Hasina governments made her most visible in: documenting human rights violations, challenging repressive legislation, and building the international advocacy coalitions that serve as the principal accountability mechanism when domestic institutions fail.

Bobby Hajjaj's trajectory as a government backbencher is the most constrained of the seven subjects' trajectories by the institutional environment of his parliamentary position. The degree of freedom he actually exercises in that position will depend primarily on the robustness of the Article 70 reform, if it is enacted, and on the BNP parliamentary leadership's tolerance for backbench dissent on specific issues. His most significant potential contribution lies in the anti-corruption and economic justice domains, where his populist credentials align most directly with specific legislative reforms that the post-August mandate requires. If he maintains his pre-election rhetorical commitment to anti-corruption advocacy in his parliamentary conduct, including voting against government proposals that he regards as protecting political patronage networks rather than dismantling them, he would make a genuinely distinctive contribution to the new parliament's legislative character. If he accommodates to the party discipline that the parliamentary culture imposes, he risks becoming indistinguishable from the governing party backbenchers of previous parliaments whose pre-election independence rhetoric evaporated on contact with the institutional realities of ruling party membership.

Barrister Suman's trajectory is the most directly determined by the specific development of the accountability cases before the ICT and the legislative choices the new parliament makes about

the accountability framework. If the ICT proceedings are conducted with the procedural rigor that his advocacy demands, and if the new parliament enacts the Digital Evidence Act and the strengthened command responsibility framework that his public commentary has recommended, his specific expertise will have contributed directly to the creation of a more credible accountability system than existed before. If the proceedings continue with the procedural shortcomings he has identified, his advocacy will have established the legal record of those shortcomings that the appeal process, and potentially the international human rights accountability mechanisms, will need to address.

Mohammad Shishir Manir's trajectory is the most directly dependent on the new parliament's early legislative choices regarding the judicial independence ordinances. If the parliament ratifies and strengthens the judicial independence framework within the thirty-day window that the constitutional ordinance ratification requirement creates, his advocacy will have contributed directly to the most important single institutional reform in Bangladesh's post-August constitutional transformation. If the parliament allows the judicial independence ordinances to lapse or substantially weakens them, his response, whether he accepts this outcome quietly or advocates vocally for the importance of the institutional independence that has been abandoned, will be one of the clearest tests of the intellectual consistency of his career.

Rumeen Farhana's trajectory is the richest with possibility and the most personally demanding. Her independent parliamentary position creates opportunities for principled advocacy on the full range of constitutional reform questions that no other member of the new parliament has in the same form. But it also requires sustained exercise of independent judgment on every parliamentary question that comes before her, without the analytical resources of party research structures and without the political protection of party solidarity. The specific tests of her independence that her career has promised will come in specific parliamentary votes: on the upper house design question, on minority rights protection provisions, on the Article 70 reform's specific scope, and on the government's management of the transitional justice process. How she votes on each of these questions, and how she explains those votes in public, will determine whether her parliamentary career validates or qualifies the reputation for principled independence that her pre-parliamentary career established.

Andaleeve Rahman's trajectory is the most likely to be expressed through intellectual and institutional channels rather than direct parliamentary engagement. His systematic engagement with international law and comparative constitutional analysis makes him most valuable as a resource for the specific design challenges of constitutional reform rather than as a direct political actor. The comparative constitutional analysis of bicameralism, caretaker mechanisms, and judicial independence that he has developed provides an intellectual infrastructure that the parliamentary reform process needs but is unlikely to generate internally. If the reform process creates adequate channels for expert intellectual input into constitutional design choices, his contribution could be substantial. If the constitutional reform process is conducted primarily as a political negotiation among partisan actors without significant expert technical input, his influence will be limited to the public discourse channels through which he can reach political actors indirectly.

CHAPTER SEVENTY-ONE: BANGLADESH AND THE GLOBAL JURISPRUDENTIAL MOMENT

Democratic Constitutionalism in the Age of Polycrisis

Bangladesh's post-August constitutional transformation is not occurring in a political or intellectual vacuum. It is occurring in what scholars have begun calling the age of polycrisis: a period in which multiple large-scale crises, including climate change, democratic backsliding, economic inequality, technological disruption, and geopolitical realignment, are interacting simultaneously in ways that strain existing institutional frameworks and create both extraordinary challenges and extraordinary opportunities for those seeking to build more just and more durable political orders.

The democratic recession that scholars including Larry Diamond, Steven Levitsky, and Lucan Way have documented across the past two decades has generated a global conversation about the conditions for democratic resilience and democratic renewal that Bangladesh's post-August transformation is simultaneously contributing to and learning from. The July 2024 uprising, as a specific instance of popular mobilization producing fundamental institutional change, is part of a global pattern of citizen-led challenges to authoritarian entrenchment that includes the Arab Spring, the Ukrainian Maidan uprising, the pro-democracy protests in Hong Kong, and the recent popular mobilizations in South Korea, Georgia, and Venezuela. Each of these episodes has generated comparative analysis about the conditions under which popular mobilization produces genuine democratic transformation rather than simply political alternation, and about the institutional designs that best translate revolutionary mandates into durable constitutional change.

Bangladesh's contribution to this global jurisprudential conversation is potentially more significant than its geographic and economic size might suggest. The specific combination of features that characterize the Bangladeshi case, a student-led uprising with broad popular support, a Nobel Peace Prize laureate as transition administrator, a constitutionally unprecedented referendum alongside parliamentary elections, a supermajority parliament with a detailed reform mandate, and a political culture shaped by both colonial common law inheritance and South Asian Islamic tradition, is genuinely distinctive and provides a case study in post-authoritarian democratic transition whose specific features illuminate aspects of the general problem that other cases do not highlight.

The contribution that our seven subjects' intellectual work makes to this global jurisprudential conversation is, in the final assessment, the most significant measure of their importance beyond the immediate Bangladeshi political context. Each of them has developed, through the specific experience of practicing law and politics in one of the most challenging constitutional environments in the global south, a form of jurisprudential insight that is grounded in specific experience rather than abstract theory. Fuad's reform constitutionalism speaks to the universal challenge of institutional transformation in the face of path-dependent dysfunction. Majumdar's intersectional rights universalism speaks to the universal challenge of making constitutional rights meaningful for the most marginalized members of society. Hajjaj's popular sovereignty nationalism speaks to the universal challenge of postcolonial states asserting genuine self-

determination in a world still structured by colonial power relations. Suman's procedural accountability advocacy speaks to the universal challenge of maintaining due process standards in post-conflict accountability processes subject to intense political pressure. Manir's institutional sovereigntism speaks to the universal challenge of building genuinely independent constitutional institutions in political cultures that have historically instrumentalized such institutions for partisan purposes. Farhana's parliamentary democracy feminism speaks to the universal challenge of integrating gender justice into the mainstream of constitutional democratic theory and practice. Rahman's multilateral institutionalism speaks to the universal challenge of small and vulnerable states building the international legal architecture that serves their interests alongside those of more powerful actors.

These contributions are not addressed primarily to an international academic audience. They are addressed to the specific needs of Bangladeshi legal-political practice. But in being genuinely responsive to those specific needs, they illuminate aspects of universal constitutional challenges that more abstract theoretical treatments sometimes miss. The most durable contributions to jurisprudence are often those grounded in the most specific and most demanding practical experience, and the constitutional experience of Bangladesh's post-August transformation is, by any measure, among the most demanding and the most practically significant in contemporary constitutional history.

The Role of Legal Education in Constitutional Transformation

One dimension of the seven subjects' collective influence that has not received sufficient attention in earlier chapters is their role in shaping the next generation of Bangladeshi legal thinkers through formal and informal legal education. All seven subjects have, in different ways and through different channels, engaged in the transmission of legal knowledge and legal values to a generation of lawyers, law students, and legal scholars who will be practicing and developing Bangladeshi law long after the specific constitutional controversies of the post-August period have been resolved or superseded.

Manir's university lectures, specifically the Dhaka University Faculty of Law series examined in Chapter Fifty-Five, are the most institutionally direct example of this educational role. The arguments he developed in those lectures about the constitutional status of the July National Charter referendum will be encountered by hundreds of law students who will carry those arguments into their subsequent professional careers as lawyers, judges, legislative drafters, and legal scholars. The quality and rigor of those arguments, and the intellectual independence with which they were offered, will have an influence on the legal culture of Bangladesh's next professional generation that is potentially more significant than his influence on the immediate constitutional controversy that the lectures addressed.

Farhana's engagement with law students through media appearances, social media, and public lectures has been the most extensive and the most explicitly pedagogical of the seven subjects' educational contributions. Her consistent practice of explaining the legal foundations of her political positions, of citing specific constitutional provisions and international human rights instruments in her public commentary, and of modeling the kind of professionally grounded public legal argument that the Bangladeshi bar does not consistently provide, has contributed to a

public culture of constitutional literacy that the post-August transformation has both stimulated and deepened. The degree to which young Bangladeshis engaged in the uprising understand their rights in constitutional terms, and understand the constitutional significance of the institutional reforms they demand, is in part a product of the public legal education that figures like Farhana have provided through sustained media engagement.

Fuad's specific engagement with law students and young professionals through the AB Party's organizational activities deserves separate mention. The party's development of policy positions on constitutional reform, electoral law, anti-corruption, and international economic relations has been conducted through processes that involve the intellectual engagement of younger party members and supporters in ways that function as a form of applied legal education. The quality of the specific policy proposals that have emerged from these processes, which are generally more technically grounded and more institutionally specific than the policy positions of the major parties, reflects the educational investment that this engagement represents.

Majumdar's educational contribution is expressed through her specific engagement with human rights civil society organizations and the training programs they conduct for legal aid lawyers, community paralegals, and civil society advocates. The intersectional justice framework that her work has developed is most directly transmitted through these training programs, which reach the legal professionals most closely engaged with the specific situations of the most vulnerable members of Bangladeshi society. This form of legal education, outside the formal law school curriculum and focused on the practical application of rights frameworks to specific situations of vulnerability, is in some respects the most democratically significant of the educational contributions examined here: it builds the legal knowledge and advocacy capacity of those who most need it and who are least likely to access it through formal legal education.

CHAPTER SEVENTY-TWO: JURISPRUDENTIAL LEGACIES AND THE MEASURE OF HISTORICAL SIGNIFICANCE

Evaluating Legal-Political Lives: The Standard of Dworkin's Integrity

Ronald Dworkin's concept of integrity, developed most fully in Law's Empire (1986), provides the most useful single criterion for evaluating the jurisprudential legacies of our seven subjects. For Dworkin, integrity requires that legal decisions and legal arguments be consistent with a principled account of the legal community's fundamental commitments, not merely with the specific rules that those commitments have produced in particular past cases. A judge who decides cases with integrity is one whose decisions, taken together, reflect a coherent set of principles rather than ad hoc responses to the specific political pressures of each individual case. The extension of this standard to the evaluation of legal-political careers is straightforward: a legal-political figure who acts with integrity is one whose public positions, taken together, reflect a coherent set of jurisprudential principles rather than opportunistic adjustments to whatever the political moment appears to reward.

Applying the Dworkinian integrity standard to our seven subjects generates assessments that are more nuanced than either hagiography or reductive criticism would permit. Nijhum Majumdar's career most clearly satisfies the integrity standard: her positions on fundamental rights, minority protections, freedom of expression, and the accountability of state actors for human rights violations have been applied with remarkable consistency across changes of government and political alignment, and the principled foundation of those positions, in the universalist human rights tradition, is consistently invoked in explaining them. Her integrity is tested most severely in the post-August context, where the institutions she had previously criticized for failing to protect fundamental rights are now being operated by a government with whose general political direction she has expressed more sympathy. If she maintains the same critical standards for the BNP government that she applied to the Awami League government, her integrity will be confirmed. If she adjusts those standards in ways that protect the post-August political settlement that she has welcomed, it will be qualified.

Mohammad Shishir Manir's career also largely satisfies the integrity standard in the domain of institutional independence: his consistent advocacy for genuinely independent constitutional institutions, regardless of which party would benefit from their independence in any given moment, reflects a coherent principle that he has applied even when its application required challenging the political positions of governments whose general direction he supported. His most significant integrity test comes in the specific question of the BNP government's management of the judicial independence ordinances: if he maintains his public advocacy for their ratification and strengthening even when the BNP government's political calculations point toward their modification or dilution, the integrity of his institutional sovereigntism will be confirmed.

Barrister Asaduzzaman Fuad's career satisfies the integrity standard in its diagnostic dimension, its consistent identification of institutional dysfunction as the primary problem and institutional reform as the primary solution, but is more qualified in its prescriptive dimension, where his specific reform proposals have sometimes been less consistent or less fully developed than his diagnostic framework would suggest. His post-electoral evolution, if it produces a more systematic and more precisely elaborated reform constitutionalism, would strengthen his career's integrity in the prescriptive as well as the diagnostic dimension.

Rumeen Farhana's career presents the most complex integrity assessment, because the range of positions she has maintained across diverse political contexts is wider than any of the other six subjects and the maintenance of consistency across that range requires a higher degree of principled commitment. Her advocacy for parliamentary democracy, for gender justice, for minority rights, and for judicial independence are all individually consistent, but their consistency with each other, and with her specific parliamentary conduct as a de facto BNP-aligned independent, is the integrity test that her parliamentary career is just now beginning to take.

Bobby Hajjaj's integrity assessment is the most complicated of the seven, because the populist rhetorical form of his public positions makes it difficult to identify the specific principles that would need to be consistently applied to satisfy the Dworkinian standard. His nationalist pragmatism is more a political sensibility than a jurisprudential framework, and its application in

specific cases does not always generate a clearly principled outcome. His integrity test as a government backbencher is whether the principled commitments he articulated in opposition, particularly on anti-corruption, Article 70 reform, and popular sovereignty, survive contact with the institutional incentives of governing party membership.

Andaleeve Rahman's career satisfies the integrity standard most fully in the international law domain, where his multilateral institutionalism provides a consistent principled framework for evaluating specific international law positions and his public analysis has been consistently applied to that framework. His integrity is most tested in the domestic constitutional domain, where the relationship between his multilateralist international law framework and his domestic constitutional positions is less fully elaborated and where the specific institutional design proposals he has developed have not always been offered with the clear principled grounding that his international law analysis consistently provides.

Barrister Suman's career satisfies the proceduralist integrity standard in the specific domain of criminal defense advocacy and accountability proceedings: his consistent insistence on procedural fairness regardless of the political identity of the defendant, and his resistance to the political pressure to subordinate due process standards to accountability outcomes, reflects a clear and consistently applied principle. His integrity is most tested in the specific question of whether he can maintain these procedural standards even in cases where the defendant is a figure whose political actions he personally regards as morally reprehensible.

The Historical Significance of the July 2024 Uprising as a Jurisprudential Event

The historical significance of the July-August 2024 uprising as a jurisprudential event, its contribution to the development of constitutional theory and political jurisprudence as an intellectual discipline, is distinct from its political significance as a catalyst for specific constitutional changes and deserves treatment as a separate analytical question. Every major political revolution produces a body of jurisprudential reflection, from the American Federalist Papers through the French revolutionary theorists to the South African constitutional thought that accompanied the ending of apartheid, and the Bangladeshi uprising of 2024 has already generated a body of jurisprudential reflection, represented in part by the public arguments and positions of our seven subjects, that contributes to the global jurisprudential conversation in ways that will outlast the specific political moment.

The specific jurisprudential contribution of the 2024 uprising lies in its dramatic illustration of the gap between formal constitutional legitimacy and substantive popular legitimacy. The Hasina government's formal constitutional legitimacy was, at the moment of the uprising's outbreak, technically beyond dispute: it had won the 2024 elections, it had been invested with parliamentary and executive authority through the constitutionally prescribed procedures, and it governed under a constitution whose amendment procedures had been used to consolidate its power in formally legal ways. Its substantive popular legitimacy, however, had collapsed: the government that shot its own citizens in the streets had forfeited the consent of the governed in a way that no formal constitutional provision could restore. The uprising's success demonstrated, with greater clarity than any academic argument could have produced, that formal constitutional

legitimacy is a necessary but not sufficient condition for a government's claim on the obedience of its citizens.

This demonstration has direct implications for constitutional theory. It provides powerful empirical support for the argument, associated in different forms with Dworkin's rights jurisprudence, Rawls's justice as fairness, and the natural law tradition's insistence on the moral foundations of legal obligation, that legal authority is ultimately grounded in something more than the formal procedures through which it is constituted. The formal procedures of Hasina's constitutional order were intact; what was absent was the substantive justice that makes formal constitutional authority morally obligatory. The students and citizens who challenged that authority in the streets of Dhaka and across Bangladesh were not acting outside the law in the morally pejorative sense that term implies: they were acting within the deeper law of political justice that the formal constitutional framework had been deployed to evade.

The implications for constitutional design are equally significant. A constitution that creates formal legitimacy without securing substantive justice is a constitution that is vulnerable to exactly the kind of popular challenge that the 2024 uprising represented. The July National Charter's reform agenda, and the new parliament's responsibility to implement it faithfully, are attempts to create the substantive constitutional justice, genuine protection for individual rights, real constraints on executive power, genuine independence of constitutional institutions, and fair electoral mechanisms, that makes formal constitutional legitimacy morally grounded rather than merely formally valid. Whether those attempts succeed is the question on which this textbook has been focused throughout its seven parts, and it is a question whose answer will be written by Bangladesh's political and legal actors over the years and decades that follow the moment of this textbook's composition.

CHAPTER SEVENTY-THREE: THE PHILOSOPHICAL ANTHROPOLOGY OF THE BANGLADESHI LEGAL-POLITICAL MIND

What Kind of Person Does Bangladeshi Legal-Political Practice Produce?

The biographical and analytical examination of seven specific Bangladeshi legal-political figures undertaken across this textbook permits, at its conclusion, a reflection on a broader question that the specific biographical data illuminates: what kind of person does sustained participation in Bangladeshi legal-political life tend to produce, and what does the answer to that question imply for the prospects of genuine institutional transformation?

The answer that the seven biographies collectively suggest is both encouraging and sobering. It is encouraging because all seven subjects demonstrate, in different degrees and in different domains, a genuine intellectual engagement with the jurisprudential and constitutional questions that their political and legal practice raises. None of them is simply a political operator without meaningful engagement with the ideas that their rhetoric invokes. Each has developed a real jurisprudential framework, more or less systematically elaborated, more or less consistently applied, but genuinely present as an intellectual structure that shapes their public conduct. This

intellectual seriousness is not trivially common in political life anywhere in the world, and its presence among multiple significant figures in Bangladeshi legal-political discourse is an indicator of the genuine intellectual resources that Bangladesh's post-August constitutional transformation can draw upon.

The sobering dimension of the answer lies in the consistent tension, visible in all seven careers to different degrees, between intellectual commitment and political accommodation. Each of our seven subjects has experienced moments in their career where the principled position that their jurisprudential framework dictates has been in tension with the political constraints, including partisan loyalty, personal interest, and the pressures of political alliances, that their specific institutional position imposes. Each has, at different moments, made choices in which political accommodation has taken priority over principled consistency. This is not a moral failing peculiar to these seven individuals: it reflects the structural conditions of political practice in a polarized and often violent political environment where the costs of principled independence can be very high and the rewards of partisan accommodation can be very great.

The philosophical anthropology question, what kind of person Bangladeshi legal-political practice tends to produce, is ultimately a question about the relationship between character and institution. The moral psychology tradition, from Aristotle's account of the virtuous person through John Dewey's pragmatic ethics to contemporary virtue ethics scholarship, recognizes that character is shaped by practice: we become the kind of people that our habitual practices form us to be. The practices of Bangladeshi legal-political life have historically included the regular experience of political violence, the routine expectation of partisan loyalty as the price of professional advancement, the constant tension between formal legal standards and political reality, and the specific professional culture of a bar that has never successfully maintained institutional independence from partisan politics. These practices form a specific kind of legal-political character, one that is sophisticated in the assessment of political power dynamics, practically skilled in the management of institutional tensions, and sometimes compromised in the consistent application of principled positions under political pressure.

The institutional reform agenda that the post-August moment has created is also an agenda for transforming the practices of Bangladeshi legal-political life, and therefore for transforming the character that those practices form. Genuine judicial independence, if achieved, would transform the practices of judicial appointment and judicial decision-making in ways that form a different kind of judicial character, one shaped by the expectation of professional evaluation by peers rather than by the calculation of political consequences for the appointing authority. Genuine parliamentary independence, if Article 70 reform creates it, would transform the practices of parliamentary deliberation in ways that form a different kind of parliamentary character, one shaped by the experience of genuine argumentation and persuasion rather than by the ritual of ratifying decisions already made by party leadership. Genuine institutional accountability for corruption, if the anti-corruption framework is adequately strengthened, would transform the practices of public administration in ways that form a different kind of bureaucratic character, one shaped by the expectation of accountability to legal standards rather than by the culture of political patronage.

These institutional transformations do not happen quickly, and their effects on political character are even slower. The formation of a constitutional culture, the internalization of constitutional values and constitutional practices as the normal expectations of political life rather than as idealistic aspirations, is the work of generations rather than of parliamentary terms. Bangladesh's post-August constitutional transformation is the beginning of this cultural formation process, not its completion. The seven subjects whose careers this textbook has examined are participants in that beginning, carrying within their own complex and contradictory characters both the inheritances of the political culture they are trying to transform and the aspirations toward a constitutional order genuinely grounded in justice, dignity, and the rule of law.

The Final Word: Voices Heard, Silences Remaining

This textbook has taken as its central subject seven voices that have been, in different ways and to different degrees, influential in shaping the legal-political landscape of Bangladesh's post-August transformation. It has engaged with those voices seriously, critically, and with the analytical depth that the complexity of their contributions requires. It has not resolved all of the tensions it has identified, because those tensions are real and their resolution is a project still underway. It has not offered predictions about outcomes, because the intellectual honesty that serious scholarship requires acknowledges the limits of what analysis can foresee in a political environment as dynamic and as fundamentally uncertain as Bangladesh's post-August constitutional moment.

What the textbook has offered is a set of analytical frameworks, a body of comparative and theoretical evidence, and a specific examination of seven careers that collectively provide the reader with the intellectual resources to engage with Bangladesh's constitutional future not as a spectator of events whose significance they cannot assess but as an informed participant in the jurisprudential conversation that those events demand. The student who has worked through this textbook in its seven parts knows something about Hart's rule of recognition and why it matters for understanding constitutional crises. She knows something about Dworkin's integrity and why it provides a useful criterion for evaluating legal-political careers. He knows something about Philip Pettit's republican non-domination and why it provides a better standard for evaluating constitutional reform than formal procedural compliance alone. She knows something about the TWAIL tradition and why it illuminates Bangladesh's international legal situation in ways that mainstream international law scholarship does not always capture. He knows something about Habermas's discourse ethics and why it generates specific institutional requirements for the democratic legitimacy of constitutional reform processes.

Armed with these analytical resources, the student is equipped to engage with the constitutional controversies of Bangladesh's present and future moment not as a partisan whose prior commitments determine her response to new developments but as a genuinely analytical thinker whose intellectual frameworks help her to evaluate those developments on their merits. This is the most ambitious aspiration of any textbook, and the most important contribution that legal scholarship can make to the specific political moment it addresses. Whether this textbook has fully achieved that aspiration is for the reader to assess. But the attempt has been genuine, and the subject, Bangladesh's extraordinary constitutional experiment in the wake of one of the most dramatic political upheavals of the twenty-first century so far, has been worthy of the attempt.

The silences that remain are as important as the voices that have been heard. This textbook has examined seven significant figures, but Bangladesh's constitutional transformation involves thousands of people whose contributions will not receive the analytical attention they deserve in any single academic work. The law students who went into the streets in July 2024 and who are now engaging with the constitutional reform process as voters, as civil society advocates, and as young lawyers entering a legal profession they hope to make more independent and more principled. The judges who will have to decide the constitutional cases that the post-August legislation generates, whose names and whose decisions will be known only when those cases are decided. The local civil society organizations in every district of Bangladesh that are building the democratic accountability capacity at the grassroots level without which the constitutional transformations at the national level cannot be practically meaningful. The garment workers whose rights are the ultimate test of whether the economic justice dimension of Bangladesh's constitutional democracy is real or rhetorical. The Rohingya refugees whose presence in Bangladesh represents the most pressing and the most unresolved human rights challenge that the constitutional transformation must ultimately address.

These voices are present in this textbook indirectly, as the subjects of the advocacy of our seven central figures and as the constituencies whose interests those figures' jurisprudential frameworks are ultimately evaluated against. But they are present in their own right, with their own dignity and their own claims, in the streets and communities and courtrooms and parliamentary galleries of Bangladesh. The constitutional transformation of Bangladesh's post-August moment belongs ultimately to them, not to the seven articulate and legally sophisticated voices that this textbook has examined in such detail. The barristers and the barricade builders share the same constitutional project, even if they inhabit it from very different vantage points. Understanding what that project requires, and holding its participants accountable to its demands, is the intellectual task that this textbook has attempted to advance.

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This concludes Part Seven and the entirety of "Voices of the Bar and the Barricade: A Critical Textbook of Seven Bangladeshi Legal-Political Minds in the Age of Uprising, Reform, and Constitutional Crisis."

The seven parts of this textbook have collectively examined the historical and constitutional architecture of Bangladesh, the biographical and jurisprudential foundations of seven significant legal-political figures, the specific controversies and internal conflicts of the August 2024 to April 2026 transitional period, the international legal dimensions of Bangladesh's post-uprising transformation, the legislative agenda of the new parliament elected in February 2026, and the comparative, theoretical, and prospective dimensions of the constitutional reform process. The analysis has drawn on the most current available evidence as of April 2026 and on the full range of jurisprudential and constitutional theory relevant to the questions raised by Bangladesh's extraordinary political and legal moment. The intellectual ambition of the work has been to provide a textbook that is simultaneously rigorous in its theoretical analysis and grounded in the specific empirical realities of the legal-political environment it examines, in the belief that the most useful scholarship is that which takes seriously both the demands of intellectual precision and the urgency of practical engagement with the constitutional challenges that shape the lives of real people in specific places and specific times.

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